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Trial

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

15 Cr. 588 (ER)

5 AHMED MOHAMMED EL GAMMAL,

6 Defendant.

7 -----x

8 New York, N.Y.
9 January 17, 2017
9:15 a.m.

10 Before:

11 HON. EDGARDO RAMOS,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

United States Attorney for the
Southern District of New York

16 BRENDAN F. QUIGLEY

17 NEGAR TEKEEI

ANDREW J. DeFILIPPIS

18 Assistant United States Attorneys

19 FEDERAL DEFENDERS OF NEW YORK, INC.

Attorneys for Defendant

20 BY: SABRINA SHROFF

ANNALISA MIRÓN

21 DANIEL G. HABIB

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1 (Trial resumed)

2 (In open court; jury not present)

3 THE COURT: Good morning, everyone.

4 MS. SHROFF: Good morning.

5 THE COURT: I have received over the course of the
6 last day several motions; one from Mr. Andrew Patel, who
7 represents Mr. Tarek El-Goarany, concerning a subpoena return
8 addressed to New Singular Wireless. I don't think I've gotten
9 a response from any parties regarding that.

10 I've got the defense motion in limine to preclude the
11 admission of Samy El-Goarany's photos, Government Exhibits 904
12 and 905. I've gotten the government's motion to preclude
13 Defense Exhibit 122-2T and Mr. Attiya Aboualala's resume and
14 I've gotten the motion to instruct the jury concerning a
15 particular aspect of the law and to advise the Court and
16 defense that they may seek to introduce certain voting records
17 of an individual not here on trial.

18 Is there anything else that I should have received?

19 MR. QUIGLEY: Not from the government, your Honor.

20 THE COURT: Anything from the defense that I should
21 have received that I did not get?

22 MS. SHROFF: No, your Honor.

23 THE COURT: Mr. Quigley.

24 MR. QUIGLEY: Your Honor, if I may, just one quick
25 thing. Defense Exhibit 122-IIT, I have had a chance to take a

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1 quick look at, it is the defense's opposition, this morning and
2 I'm not going to address everything that's in there. On the
3 issue of -- there is an argument under Rule 806 based on the
4 idea that we had admitted this conversation that Brother Ahmed
5 was one of the Daesh Brotherhood in Government Exhibit 122GT.
6 We did not in fact offer that conversation, we do not intend
7 to, as the conversation the Court ruled inadmissible in motion
8 in limine practice suggested I think softly that we might not
9 want to use it. We ended up taking it out and not offering it.

10 THE COURT: As I recall, given the ambiguity in the
11 exhibit as to who the Jamal was --

12 MR. QUIGLEY: Who the Ahmed was.

13 THE COURT: I'm sorry, did you wish to stand up,
14 Ms. Miron?

15 MS. MIRON: We have a separate issue to raise, but if
16 the Court is going to rule on anything we'll wait until the
17 Court --

18 THE COURT: I'm ready to rule on the photo. Since the
19 government is not going to be offering it, there's nothing for
20 me to rule on. With respect to the transcript, I know there
21 was another aspect of that conversation that the defense
22 indicates is appropriate impeachment material under Rule 806.
23 Again, I forget as I sit here exactly what the conversation is.
24 I agree that it is adequate or appropriate impeachment
25 testimony and so that aspect of the conversation will be

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1 allowed and I just need to take a look at the transcript to see
2 what if anything else will be allowed to come in with that.

3 What is that other portion?

4 MR. QUIGLEY: Your Honor, I think it was where
5 Mr. Attiya said that he instructed Samy to make the video.

6 THE COURT: Correct. So that aspect and, whatever,
7 and again I'll get the parties the precise items, additional
8 items, if any, that will be allowed to come in with that
9 portion of the conversation.

10 And, again, Mr. Patel is not here. I'll try to reach
11 out to him and have him be here by 12:30, if not 12:30 then by
12 4:00, so we can discuss his motion to quash. I take it will we
13 run into trouble with one or more witnesses if that decision
14 not made before the end of the day today?

15 MS. MIRON: Your Honor, just to be clear, we did
16 receive from the government what we thought to be a subpoena so
17 I don't see any reason to argue his motion to quash. We're not
18 seeking a subpoena anymore.

19 THE COURT: So I don't have to rule on that?

20 MS. MIRON: Right.

21 THE COURT: So much the better.

22 MS. SHROFF: We got the records yesterday or the day
23 before and that suffices.

24 THE COURT: So the only remaining issue I think is the
25 resume. So I'll hear the defense on the resume, but, what do

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1 you have to say?

2 MR. HABIB: Thank you, your Honor. It was addressed
3 briefly at the conclusion of the opposition we filed early this
4 morning. The resume is tendered for the non-hearsay purpose of
5 showing its effect on the listener, Mr. El Gammal. Its effect
6 on the listener is relevant because, as the Court has already
7 ruled with respect to conversations of a similar nature, they
8 demonstrate Mr. Aboualala was a journalist, had professional
9 and academic experience and hence could support the defense
10 argument that in referring Samy El-Goarany to Mr. Aboualala
11 Mr. Gammal believed he was making a referral for professional
12 purposes while at the same time negating the government's
13 argument that the only purpose for which Mr. El Gammal could
14 have sent Samy to Attiya would have been to channel him into
15 ISIS.

16 MR. QUIGLEY: If I may, your Honor.

17 THE COURT: I don't know that Mr. Habib is done.

18 MR. HABIB: And, in addition, my colleague reminds me
19 that the government has introduced other chats tending to
20 undermine the contention that Attiya is Muslim Brotherhood,
21 tending to undermine the contention that Attiya is a legitimate
22 journalist, so this material is relevant to contest that
23 contention.

24 THE COURT: Would you remind me what those chats are,
25 generally speaking, what was said? Because as I sit here, I

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1 don't remember.

2 MR. HABIB: We could pull those during a break.

3 THE COURT: Okay. Mr. Quigley?

4 MR. QUIGLEY: Yes, your Honor. We think there's --
5 for the reasons set forth in our papers, the most, even to the
6 extent that Mr. Attiya was a journalist or was holding himself
7 out as a journalist in 2014 and 2015, there's already been
8 testimony about that. This resume reflects the most recent
9 experience, reflects his experience in the Army up to
10 September 2012 which is two years before the start of the
11 charged conspiracy. In addition, some of the teaching
12 experiences and courses, training and teaching skills have no
13 bearing on whether or not he was a journalist, so to the extent
14 any portion comes in we think those portions should be redacted
15 and only the media experience aspect should come in.

16 MR. HABIB: Very briefly, your Honor, on the timing.
17 The government's case agent testified that Attiya sent this
18 resume to Mr. El Gammal in October, I believe October and
19 November of 2013 and then again in 2014, so it's fresh as to
20 the time that's relevant in this case. We have no objection to
21 working out redactions with the government. But the core
22 argument is this: It's non-hearsay because it shows its
23 effect, it's being offered for its effect on Mr. El Gammal and
24 the effect is relevant to show Mr. El Gammal, to prove up his
25 belief he was a journalist and referring Samy El-Goarany he

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1 believed Mr. Aboualala could provide some assistance that
2 wasn't channeling Mr. El-Goarany to ISIS.

3 MR. QUIGLEY: Very briefly, your Honor. I think that
4 the defendant witness will testify that a resume was sent to --
5 and I think there may be an authentication issue also with
6 those resumes being sent to Gammal at those times.

7 THE COURT: Where did you get that resume?

8 MR. HABIB: It's from Attiya's e-mail, it was e-mailed
9 from Attiya to Gammal.

10 MS. SHROFF: On Gammal's Facebook page.

11 THE COURT: On Gammal's Facebook page.

12 MS. SHROFF: Mr. El Gammal.

13 THE COURT: Mr. El Gammal. So you received that from
14 the government?

15 MR. HABIB: I believe we received that, yes, from the
16 government.

17 THE COURT: I'll allow a redacted version of the
18 resume to reflect, again, just those portions reflecting his
19 media experience. So I will leave it to the parties in the
20 first instance to see whether or not they can agree on what the
21 appropriate redactions will be.

22 We have just a couple of minutes left. I think, is
23 the jury here? I see Mr. Patel is in the courtroom.
24 Mr. Patel, you've done wonderful work, even in your absence.
25 You have won your motion. The subpoena apparently will not be

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1 relied upon by the defense.

2 MR. PATEL: Thank you, your Honor. The folks at AT&T
3 have requested an order telling them what to do with the
4 subpoena. I don't know -- their compliance unit has requested
5 it.

6 THE COURT: What is their concern? My understanding
7 is they've provided the documents requested.

8 MR. PATEL: They have not.

9 MS. MIRON: The government has provided it to us so we
10 don't need to obtain the records from AT&T.

11 THE COURT: Tell them they can keep their records,
12 they do not have to comply with the subpoenas.

13 MR. PATEL: I think they need an order from the Court.
14 The subpoena is from an order of the Court, so they need
15 another order. I can submit a two-sentence order if you would
16 like.

17 THE COURT: Wonderful. Thank you, Mr. Patel.

18 Mr. DeFillipis?

19 MR. DEFILIPPIS: Yes, your Honor. We have one issue
20 relevant to Ms. Horvath's testimony. Ordinarily I wouldn't
21 raise it, but we can raise it before she resumes. I don't know
22 if defense counsel will raise the same issue.

23 You may recall that defense counsel prior to
24 Ms. Horvath's testimony moved to preclude any reference to the
25 defendant downloading the Telegram application on his iPad

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1 mini. Partially in response to the issue the defense raised on
2 that subject, Ms. Horvath and the FBI have done additional work
3 on that issue and determined two things. First, Ms. Horvath
4 compared the file size and I think this actually had been done
5 before we addressed this, but compared the file size of the
6 Telegram application generally to the amount of space that the
7 Telegram application was using on the defendant's phone and
8 found that the space used on the defendant's phone was bigger
9 than the raw application, leading her to the conclusion that he
10 likely used it. So that's part one, which as I said would have
11 been her testimony anyway.

12 But in order to further look into this issue, the
13 government also went back to the hard device itself, the iPad,
14 and went into the Telegram application and found what is
15 apparently not available in the extraction reports of the
16 device, which is that the defendant did in fact exchange
17 messages using Telegram with at least two individuals. One of
18 those individuals has a profile photograph and his profile
19 photograph depicts him making a one-finger sign, which there's
20 been testimony is the sign for ISIS, with a black flag with
21 Arabic writing in the background.

22 THE COURT: I'm sorry, this is whose photograph?

23 MR. DEFILIPPIS: We don't know the identity of the
24 person, but it's someone with whom the defendant appears to
25 have communicated with over Telegram. That is something, we

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1 very recently took screen shots of that profile photograph and
2 the plan would be for Ms. Horvath during her testimony to
3 actually turn on the device. We don't intend to offer the full
4 device, but she would turn on the device, go to the photograph
5 and we would simultaneously put on screen and offer the screen
6 shots of that profile photograph just to establish that the
7 defendant in fact used Telegram and communicated with someone
8 with that photograph as his profile.

9 MS. MIRON: Your Honor, we first moved to preclude
10 Mary Horvath's testimony because of the inadequate expert
11 notice and the government never prepared a narrative of what
12 Ms. Horvath was going to testify to, and instead gave us a copy
13 of her presentation which has one row regarding Telegram, has
14 nothing about pictures, nothing about file size, and if the
15 government is saying that what they did could not be seen in
16 the iPad raw data that we've received, it's also a Rule 16
17 violation to introduce this data, because we've never seen it.
18 We were never able to give it to our expert.

19 We are in the middle of the direct testimony for
20 Ms. Horvath. I cannot consult with our expert about the
21 conclusions that she's about to testify to. First I've heard
22 them during this trial. So we're moving to preclude because
23 it's late expert disclosure. There are additional conclusions
24 she's going to testify to that I have not received notice of,
25 and we're moving to preclude because of the Rule 16 violation.

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1 THE COURT: I'm not going to allow Ms. Horvath to
2 testify about these most recent findings. I will maintain my
3 ruling that she can testify to the fact that Mr. El Gammal
4 downloaded the Telegram application and will leave it -- and
5 that it's, whatever type of application it is, an application
6 that allows individuals to communicate over encrypted medium,
7 but I think it prejudices the defendant to have to respond to
8 these revelations at this juncture.

9 Now, that does not preclude the possibility that the
10 defense might open up the door to allowing this testimony, so I
11 put that out there for your consideration. But I just think
12 it's too late in the day to admit that type of testimony.

13 MR. DEFILIPPIS: Your Honor, may I just clarify the
14 ruling? Is she permitted to testify as to her file size
15 comparison that based on that the application was likely used?

16 THE COURT: No.

17 MR. DEFILIPPIS: Just very briefly, your Honor. If
18 it's an issue of expert disclosure, the government is prepared
19 to offer this testimony, in fact, it was not Ms. Horvath who
20 initially located this on the phone. The defendant was
21 provided access to this very device, turned it on and had
22 access to it within the last several weeks. The government's
23 intent would be to put on an FBI agent who could testify to the
24 contents. Again, we don't think that in any way implicates
25 expert notice rules or Rule 16 given that the defense had

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1 access to the device.

2 THE COURT: That does not need to be decided right
3 now. I think it's past 9:30. So let's think about that.
4 Obviously, the prejudice to the defendant would be similar in
5 that event. But let's take some time to think about that.

6 Let's get the jury. Is Ms. Horvath ready?

7 MR. DEFILIPPIS: Yes, your Honor.

8 THE COURT: Why don't we bring her in?

9 MR. DEFILIPPIS: Okay.

10 MS. SHROFF: Your Honor, may we after the direct is
11 over have a two-minute recess to discuss what the Court just
12 ruled before we start cross?

13 THE COURT: Certainly. Ms. Horvath, step up. Good
14 morning to you.

15 THE WITNESS: Good morning, sir.

16 (Continued on next page)

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Horvath - direct

1 (In open court; jury present)

2 THE COURT: Ladies and gentlemen, good morning, I
3 trust you all had a pleasant weekend. Thank you as always for
4 being so prompt. We will now continue with the direct
5 examination of Ms. Horvath. Mr. DeFillipis.

6 MR. DEFILIPPIS: Thank you, your Honor. Your Honor,
7 may I approach?

8 THE COURT: You may.

9 MARY HORVATH,

10 called as a witness by the Government,

11 having been previously duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. DEFILIPPIS:

14 Q. Ms. Horvath, I just handed you what's been marked as
15 Government Exhibit 3A and I think last time there may have been
16 a bit of confusion in terms of which CD we were looking at, but
17 would you see if you recognize Government Exhibit 3A?

18 A. Yes, I do.

19 Q. How do you recognize that?

20 A. I created this. It has my initials on it.

21 Q. What is this?

22 A. It is the CD of the report that was extracted from the
23 device.

24 Q. Is that the report we've been looking at throughout the
25 proceedings?

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Horvath - direct

1 A. Yes, it is.

2 Q. Okay I just wanted to clarify that. I think we left off on
3 slide 8. Now, Ms. Horvath remind us of what it is that SMS
4 stands for?

5 A. Short messaging service.

6 Q. Just briefly remind us what is the data displayed here on
7 this slide?

8 A. These are various entries from the recents file. You
9 recall a recent file keeps track of whom you've recently been
10 in contact with. The dates and times and the UTC of the recent
11 contacts this device had with this phone here.

12 Q. These entries here are, shows all the entries contained in
13 the SMS portion of the report or just select ones?

14 A. Just select ones.

15 Q. Which phone number, in particular which phone number does
16 this data pertain to?

17 A. (845)283-9079.

18 Q. Okay, next slide. Ms. Horvath, what does the user accounts
19 section of the forensic report that you ran display?

20 A. It displays all the various accounts that were set up on
21 this device, either automatically by Apple or user-created
22 accounts.

23 Q. So looking to this slide, where it says in parenthesis
24 "Skype," and then the data field below, what's shown here?

25 A. This is an entry within the file, the file is called

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Horvath - direct

1 main.dv, which is a database that contains all the user account
2 information and this is an entry of a user account that was
3 created for the Skype software.

4 Q. And the account name associated with that Skype account?

5 A. Ahmed El Gammal.

6 Q. And the mobile telephone number associated with Skype?

7 A. (623)692-7880.

8 Q. Now, did you say during your prior testimony that an Apple
9 iPad is not typically used as a phone or that this one was not
10 used as a phone?

11 A. That's correct.

12 Q. Explain why it is that a phone number would be associated
13 with a Skype account on the device?

14 A. Typically with messaging applications you actually have to
15 tie it to a specific phone number. So, for example, on my iPad
16 where I use Skype I have to tie it to my cellular telephone
17 number in order to create the account.

18 Q. And so how does it interface with other phone numbers
19 through the Skype application?

20 A. Again, typically with, for example, Skype, on the other end
21 is a user who also has the same type of Skype account who has
22 established that person's phone number with Skype as well, and
23 it automates the messaging provision from cellular device to
24 cellular device or Skype to Skype via the internet.

25 MR. DEFILIPPIS: Ms. Quinones, if we could turn to the

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Horvath - direct

1 next side.

2 Q. Is this data also drawn from the user account section of
3 the report?

4 A. Yes, it is.

5 Q. And what is displayed here?

6 A. These are two separate user accounts; one established with
7 Facebook and one established with the Facebook Messenger app.

8 Q. And looking to the first row there, is that where the
9 Facebook Messenger application is referenced?

10 A. Yes, it is.

11 Q. And what if anything can we conclude from this data about
12 whether the user of the device downloaded the Facebook
13 Messenger application?

14 A. Not only does he have an entry for his user account from
15 the Facebook Messenger application within the device, a phone
16 number is established for that account and the Facebook
17 Messenger app does not come by default with an iPad mini at
18 this date and time that this was created.

19 Q. So if you were to say whether or not the user downloaded
20 the Facebook Messenger application, is the answer yes?

21 A. Yes.

22 Q. And looking to the next row, is the Facebook application a
23 separate application from Facebook Messenger?

24 A. Yes, it is.

25 Q. And what if anything can we tell from this data whether the

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Horvath - direct

1 user of the device downloaded the Facebook application?

2 A. Again, the same thing. The fact that there's an entry for
3 a user account established with Facebook dictates the fact that
4 a Facebook application was installed.

5 Q. And as to both applications, what was the user name or user
6 names associated with those?

7 A. Jammie Gammal.

8 Q. And the user ID which is depicted on the next column, was
9 it the same for both?

10 A. Yes, it is.

11 Q. Next slide. Ms. Horvath, whats depicted in the installed
12 applications of the forensic report you ran?

13 A. These are two entries that, again, dictate the fact that
14 two applications were installed, the two separate entries here
15 are for Facebook and Facebook Messenger.

16 Q. Looking to the first row labeled number 4, what application
17 is reflected there?

18 A. Facebook.

19 Q. And the second row?

20 A. Messenger. Facebook Messenger.

21 Q. So what if anything does this tell us?

22 A. That the two separate applications were installed on this
23 device. I don't believe it gives date and time, but that they
24 were installed.

25 Q. Next slide. Is this a continuation of the installed

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Horvath - direct

1 applications information from the report?

2 A. Yes, it is.

3 Q. And looking at the row labeled 32 there, which application
4 is reflected?

5 A. Skype.

6 Q. So what if anything can we conclude about whether the user
7 downloaded Skype?

8 A. The fact that this entry exists dictates that the
9 application was installed and it was Skype.

10 Q. And looking to the next row, row 49, what application does
11 that refer to?

12 A. Telegram.

13 Q. What is Telegram?

14 A. Telegram is a messenger service, a chat messaging service.

15 Q. What if anything can we conclude about whether Telegram was
16 downloaded by the user to this device?

17 A. The fact this entry exists dictates that that application
18 was installed.

19 MR. DEFILIPPIS: Thank you, your Honor. No further
20 questions at this time. Oh, I'm sorry. I apologize.

21 Q. Very briefly, Ms. Horvath. We spoke about IP addresses
22 during your prior testimony. Do you recall that?

23 A. Yes.

24 Q. By looking at an IP address, is there any way in which you
25 can determine the location of the provider of that address or

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Horvath - direct

1 approximate location?

2 A. It depends on the IP address. You can have two types of IP
3 address. One is usually labeled internet IP address or network
4 IP address. Those are addresses that would be for your host
5 provider, specific to the host provider. They pay for them,
6 they own a range of them. For example, Verizon has its own IP
7 address totally separate and distinct from let's say AT&T.
8 Starbucks has their own IP address on the internet. That's how
9 it knows whether messages should be delivered to Verizon or to
10 Starbucks.

11 You for example, you, the user, if you have wireless
12 in your own home you typically lease those services from a host
13 provider, but the host provider does something called dynamic
14 host controlled protocol, acronym for DHCP, which basically
15 allows your local services within your house to be given a
16 local internet protocol address or IP address, commonly known
17 as 192168, and there are provisions within the host provider
18 service and you lease it for a short period of time while
19 you're using it and then you have to give it up.

20 The local IP addresses that usually begin with 192168
21 are not unique, but they're unique to the provider who, for
22 example, if you lease your wireless services from Verizon,
23 they're unique to you within the Verizon network and Verizon
24 knows who has what IP address at what point in time, but when
25 you send a message out to the bigger internet via Verizon, it

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1 gets wrapped in an envelope that comes from Verizon, from the
2 outside of your internet within your home. It's a little
3 confusing, but the local IP address, there's no way
4 specifically to determine who owns that IP address at any
5 moment in time. It's the envelope that surrounds those IP
6 addresses that allow you to dictate who it was. If you have an
7 internet IP address, those are easily found out who the host
8 provider was.

9 Q. In terms of the location of a particular IP address, let's
10 say I'm registered with Time Warner and I have a Time Warner IP
11 address. If Time Warner is located in New York, will the IP
12 address associate with New York?

13 A. Yes, common.

14 Q. Now, is it possible that the location of the IP address or
15 the provider might be different from the location of the
16 device?

17 A. That's correct, yes.

18 Q. And why is that?

19 A. There's multiple reasons. For example, one of which is
20 depending on where you are in the world, depending on how you
21 log into the internet you can be logging in directly with Time
22 Warner. Time Warner knows who you are as a customer and will
23 assign you your local regional addresses if you're in New York.
24 For example, it's why you can't watch football games on the
25 internet in California when you lease your internet services at

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1 home in Virginia, because you log into your Virginia server
2 even though you're in California and Verizon says, no, I'm
3 sorry you can't watch that football game, you're not home.

4 Q. Is it possible that a physical device would be located in
5 one country and the IP address would reflect in another
6 country?

7 A. Yes. There's multiple ways to do that.

8 MR. DEFILIPPIS: Thank you, your Honor.

9 THE COURT: Ladies and gentlemen, I for reasons that
10 need not concern you, I promised the lawyers ten minutes at
11 this point, so I'm going to have you brought out for just ten
12 minutes. Please do not discuss the case.

13 (Jury excused)

14 (Continued on next page)

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Horvath - direct

1 (In open court; jury not present)

2 THE COURT: Ms. Horvath, you may step down.

3 MR. HABIB: Your Honor, while we're on pause I want to
4 alert the Court that we received last night the government's
5 motion with respect to the Orlando shooting and those limiting
6 instructions. We intend to respond to that.

7 THE COURT: I'm sorry?

8 MR. HABIB: We intend to file a report.

9 THE COURT: Okay. Very will, let's get Ms. Horvath
10 and let's get the jury.

11 (Continued on next page)

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1 (In open court; jury present)

2 THE COURT: Cross-examination.

3 MS. MIRON: We have no questions, your Honor.

4 THE COURT: Ms. Horvath, you may step down.

5 THE WITNESS: Thank you.

6 (Witness excused)

7 THE COURT: Will the government please call your next
8 witness?

9 MS. TEKEEI: Thank you, your Honor. The government
10 calls Tarek El-Goarany.

11 (Pause)

12 MS. TEKEEI: Your Honor, with the Court's permission,
13 we'd like to publish before Mr. El-Goarany's testimony what is
14 already in evidence as Government Exhibit 120AT, and publish it
15 by reading certain excerpts to the jury.

16 THE COURT: Very well.

17 MS. TEKEEI: And, your Honor, this exhibit, which is
18 already in evidence, is in the jury's binders. Again,
19 Government Exhibit 120AT. Beginning at page 38.

20 THE COURT: Okay, is everyone there?"

21 MS. TEKEEI: Beginning with the message from Attiya to
22 the defendant, beginning on September 10, 2014 at 11:59.

23 THE COURT: You may proceed.

24 MS. TEKEEI: Thank you.

25 THE WITNESS:

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1 "ATTIYA: Thumbs up sticker. Jimmy, there is a
2 probability I will join the state."

3 MS. TEKEEI: Turning to page 43. The communication
4 from the defendant to Attiya on October 22, 2014.

5 "EL GAMMAL: My friend will get there on November 6.

6 MS. TEKEEI:

7 "ATTIYA: [Deleted]

8 MS. TEKEEI: Turning to the communication from Attiya
9 October 27, 2014 to the defendant.

10 "ATTIYA: The day of November 7 the airport at
11 5:45 a.m. flight number TK0004 terminal one.

12 "EL GAMMAL: [Deleted]

13 "ATTIYA: [Deleted] [Deleted]

14 "EL GAMMAL: [Deleted] [Deleted]

15 "ATTIYA: [Deleted] [Deleted]

16 "EL GAMMAL: [Deleted] [Deleted]

17 "ATTIYA: [Deleted]

18 "EL GAMMAL: [Deleted] [Deleted].

19 "ATTIYA: [Deleted] attachment [Deleted]

20 "EL GAMMAL: [Deleted]

21 "ATTIYA: [Deleted] [Deleted]

22 "EL GAMMAL: [Deleted] [Deleted] and delete the
23 comments you have.

24 "ATTIYA: I deleted the conversation, all of it.

25 "EL GAMMAL: Okay. Most importantly I am not going to

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Trial

1 tell you more. Please meet him at the airport. He knows how
2 you look.

3 "ATTIYA: Is he staying at a hotel or should I make a
4 reservation for him.

5 "EL GAMMAL: No. He reserved one night at a hotel in
6 the old city.

7 "ATTIYA: Okay.

8 "EL GAMMAL: Address, 5 cad I Turkey 34480, Kumasi.
9 Turkey I. Oooh. Turkeli.

10 "ATTIYA: Ha ha ha.

11 "EL GAMMAL: Do you know some English now or still
12 ignorant?

13 "ATTIYA: Some.

14 "EL GAMMAL: God will make things easier. Thank you,
15 young Attiya. How is work at your channel.

16 "ATTIYA: Ha ha ha. Perfect."

17 MS. TEKEEI: Turning to page 46. On November 18,
18 communication between Attiya and the defendant beginning at
19 14:52.

20 "ATTIYA: Where is the guy Jimmy, you said on the
21 17th.

22 "EL GAMMAL: No, I said 24.

23 "ATTIYA: Okay.

24 "EL GAMMAL: Anyways, the matter canceled.

25 "ATTIYA: I am providing him with lodging, food and

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Trial

1 drink.

2 "EL GAMMAL: I just found out yesterday. May God
3 bless you, chief. His mother has a problem so he canceled the
4 travel for the time being. I am sorry we disturbed you busy,
5 your excellency Mr. media man, Attiya.

6 "ATTIYA: Ha. Don't worry my friend.

7 "EL GAMMAL: Did you see?"

8 MS. TEKEEI: Thank you.

9 Your Honor, may we also publish Government Exhibit
10 100D, which is in evidence, DT, excuse me, and we'll read some
11 excerpts from that as well.

12 THE COURT: Okay.

13 MR. QUIGLEY: On page 43, 7/11/14, 10:25, author
14 Jammie Gammal. Summary: Channels of government fighter on
15 YouTube, page, for the Moroccan al Nusra. Text: This is the
16 video for the people who spread the talk of Sisi, Hebrew and
17 Zionist channels. Title: The big publication. This is the
18 Islamic State to you who is criticizing it. Achievements of
19 the state in the Levant only.

20 7/29/14, 03:57:53, author Jammie Gammal. Text: Great
21 piece of news. The achievement and expansion of the state.
22 The advancement will reach Cairo someday. Title: Report about
23 the IS taking over regiment 121 and squad 17.

24 7/15/14, 19:35:58. Author Jammie Gammal. Text:
25 Videos of the killings attributed to Daesh. Title: The

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1 scandal of Al Jazeera when it wanted to accuse the Islamic
2 State of killing civilians.

3 You can take that down, Ms. Quinones. Thank you.

4 MS. TEEKEI: Thank you, your Honor, the government
5 calls Tarek El-Goarany.

6 MR. HABIB: Your Honor, before the witness approaches,
7 may we briefly?

8 THE COURT: Sure.

9 (Continued on next page)

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Trial

1 (At the side bar)

2 MR. HABIB: So, your Honor, in conjunction with the
3 last Exhibit 120DT, the government read into, read for the jury
4 what's in evidence from both the title and the text fields of
5 those posts. The Facebook witness testified that only the text
6 field is actually written by the Facebook user, the other
7 fields accompany the articles that the user has posted, and so
8 we'd like an instruction to the jury that those statements,
9 that is, those in the summary and title fields, number one, are
10 not to be considered for their truth because they are classic
11 hearsay, they're just newspaper articles, and, two, that the
12 defendant didn't write them.

13 MR. QUIGLEY: Your Honor, that's already in. They can
14 make that argument from the testimony. The Facebook witness
15 testified it is still nonetheless content posted on their
16 Facebook pages. Like putting a flag on my house. I didn't
17 write the flag.

18 THE COURT: I don't know about that argument, but I
19 will not give that instruction.

20 (Continued on next page)

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H1HFGAM1

T. El-Goarany - Direct

1 (In open court; jury present)

2 THE COURT: Sir, please step up into the witness stand
3 and remain standing.

4 TAREK EL-GOARANY,

5 called as a witness by the Government,

6 having been duly sworn, testified as follows:

7 THE COURT: Sir, please be seated. Pull up to the
8 microphone and please begin by stating your full name and
9 spelling your last name for the record.

10 THE WITNESS: My name is Tarek El-Goarany. My last
11 name is E-l, G-o-a-r-a-n-y.

12 THE COURT: And, sir, I can already tell that you have
13 a soft voice. If I could ask you to keep your voice up as you
14 answer the questions.

15 THE WITNESS: Yes.

16 THE COURT: Thank you so much. And I apologize for
17 speaking behind you.

18 DIRECT EXAMINATION

19 BY MS. TEKEEI:

20 Q. Mr. El-Goarany, how old are you?

21 A. I am 24 years old.

22 Q. Where were you born?

23 A. I was born in Manhattan, New York.

24 Q. Where did you grow up?

25 A. I grew up in Goshen, New York.

H1HFGAM1

T. El-Goarany - Direct

1 Q. What schools did you attend?

2 A. I attended Goshen High School and Queens College.

3 Q. How far did you get in school?

4 A. I received a Bachelor of Arts from Queens College.

5 Q. Where do you live now?

6 A. I live in Goshen, New York.

7 Q. Do you have any siblings?

8 A. Yes. I have two siblings. My older brother, Khaled, and
9 my brother, Samy, who recently passed away.

10 Q. Who is the youngest?

11 A. I'm the youngest.

12 MS. TEKEEI: Your Honor, may I approach?

13 THE COURT: You may.

14 Q. Showing you what's been marked for identification as
15 Government Exhibit 908. Do you recognize that?

16 A. Yes.

17 Q. Tell us what you recognize it to be?

18 A. It is a picture of me and my brother, Samy.

19 Q. Approximately when was that picture taken?

20 A. January, 2015.

21 MS. TEKEEI: We offer Government Exhibit 908.

22 MS. SHROFF: Objection, your Honor. May we have a
23 sidebar?

24 THE COURT: You may. And you'll bring the exhibit?

25 (Continued next page)

H1HFGAM1

T. El-Goarany - Direct

1 (At the side bar)

2 MR. HABIB: We're objecting on relevance and prejudice
3 grounds. This photo, I think there's already been numerous
4 pictures of Samy admitted into evidence. This photo doesn't
5 prove any necessary fact. It's clearly designed just to elicit
6 sympathy for the witness. There already have been numerous
7 pictures of Samy introduced. The jury knows what Samy looks
8 like. This picture doesn't prove any relevant fact and this as
9 well as the other exhibits like it that the government proposes
10 to offer are clearly designed just to generate sympathy on the
11 jury's behalf with respect to Samy, Tarek and his family. It's
12 hard to see what fact if any this proves of relevance.

13 MS. SHROFF: Your Honor, there is also no issue about
14 the relationship between Tarek El-Goarany and Samy El-Goarany.
15 It is not a fact in dispute or contention. There is also no
16 fact at issue here at all that they had a long, close,
17 brotherly relationship. That is also not a disputed fact at
18 all. This is not a case of who did it, do you recognize who
19 did it and who it was done to, so there's no issue at all as to
20 who Samy is and what Samy is all about. All of those facts can
21 be elicited by the government without putting in what is
22 obviously a very sympathetic photo through a very sympathetic
23 witness. This is classic playing to the jury and they know it.

24 MS. TEKEEI: Your Honor, a few things on that. This
25 is the only picture, not the others, that defense counsel has

H1HFGAM1

T. El-Goarany - Direct

1 shown, we intend to show before Samy left to join ISIS.
2 Defense counsel in their opening showed a picture of Samy from
3 the back before he left for ISIS. We're entitled to show a
4 photo of what he looked like, what the face of him looked like,
5 what the front looked like prior to ISIS growing his hair out,
6 growing out his beard fully. This picture I suspect the
7 witness will say was taken a matter of days before Samy left to
8 join ISIS and was among the last days he saw Samy. The
9 transformation that Samy underwent once he joined ISIS is
10 significant and this picture shows the contrast.

11 THE COURT: And you said you weren't going to show the
12 others?

13 MS. TEKEEI: No.

14 MS. SHROFF: The change in his demeanor or appearance
15 is not in issue. There is no factual dispute that Samy
16 changed. We have never challenged any portion of it. Also,
17 your Honor, more importantly, what the government is doing by
18 putting in this photo is just aggravating sympathy from the
19 jury and the photograph that was used in opening was a profile
20 photograph. Everybody's photograph that was used was a profile
21 photograph that was posted. There is no indication here that
22 this photograph is in any way relevant. What is the relevance
23 here? What is the point of showing this to the jury; that Samy
24 looked different? That he looked different is also not a fact
25 at issue or in contention. There's no disputed fact here for

H1HFGAM1

T. El-Goarany - Direct

1 which they're introducing this photograph. It is purely to
2 play to the press and to the jury.

3 MS. TEKEEI: Your Honor, we disagree. Defense counsel
4 has indicated to us multiple times that they intend to dispute
5 or may dispute the fact that Samy joined ISIS. Now, I don't
6 know if that's their current theory today, but if it is, this
7 goes directly to one of the things that happened to him and
8 what he did when he joined ISIS, which is to say that he fully
9 adopted the uniform and the look of ISIS.

10 MS. SHROFF: And how does a photograph pre-ISIS
11 determine that?

12 THE COURT: Let her finish.

13 MS. TEKEEI: This picture was taken within days of
14 when Samy El-Goarany left. The witness I suspect will say that
15 in preparation for leaving, El-Goarany began to grow out his
16 hair, his facial hair, and you see that transformation once
17 El-Goarany reached ISIS and continued to do that.

18 MS. SHROFF: That is not a fact in dispute. It's not
19 a fact in dispute at all.

20 THE COURT: That doesn't necessarily matter. The fact
21 something may not be in dispute doesn't mean evidence
22 concerning that fact may not come in. I think it may be
23 relevant more for the reasons that Ms. Teekei indicated and
24 under 403 it's clearly not prejudicial. I'm going to allow it.

25 (Continued on next page)

H1HFGAM1

T. El-Goarany - Direct

1 (In open court; jury present)

2 MS. TEKEEI: Your Honor, the government offers

3 Government Exhibit 908.

4 THE COURT: Government Exhibit 908 will be received.

5 (Government's Exhibit 908 received in evidence)

6 MS. TEKEEI: May we publish it to the jury?

7 THE COURT: You may.

8 BY MS. TEKEEI:

9 Q. Mr. El-Goarany, who is in this picture?

10 A. That's my brother Samy and me.

11 Q. And I think you said this already, I apologize, but
12 approximately when was this picture taken?

13 A. It was taken January 2015.

14 Q. What if anything happened a few days after this photo was
15 taken?

16 A. My brother left. Left.

17 MS. TEKEEI: Ms. Quinones, you can take that down.

18 Thank you.

19 Q. Left for where?

20 A. He left to Turkey; to Turkey then eventually to travel to
21 Syria.

22 Q. For what purpose?

23 A. To join ISIS.

24 Q. Did you communicate with him after he left New York?

25 A. I did.

H1HFGAM1

T. El-Goarany - Direct

1 Q. Did he ever come back to New York?

2 A. No.

3 Q. Did you communicate with him while he was in Syria in ISIS?

4 A. I did.

5 Q. Describe for us generally how you were able to communicate
6 with him while he was in Syria with ISIS.

7 A. Typically through Facebook Messenger, phone call and some
8 other messaging applications.

9 Q. Describe what he told you about what he was doing with ISIS
10 in Syria?

11 A. He told me that he wanted to fight for them and to join
12 them.

13 (Continued next page)

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H1H5gam2

T. El-Goarany - direct

1 BY MS. TEKEEI:

2 Q. I will ask you about that a little bit later, but first,
3 when was the last time you communicated with your brother Samy?

4 A. Late September -- late September, early October of 2015.

5 Q. Describe what he said about what he was going to do during
6 that exchange.

7 A. The --

8 MS. SHROFF: Objection, your Honor. Hearsay.

9 THE COURT: Overruled.

10 THE WITNESS: Can you repeat the question? I'm sorry.

11 BY MS. TEKEEI:

12 Q. Absolutely.

13 Describe for us what he said about what he intended to
14 do during that exchange that you just described in October of
15 2015.

16 A. He said that he would be deployed on a -- for combat.

17 Q. Fighting for whom?

18 A. For ISIS.

19 Q. Tell us why that was the last time you spoke with your
20 brother Samy.

21 A. Because he passed away in November.

22 Q. How do you know that?

23 A. I received a letter -- or it was a picture of a letter from
24 a member of ISIS on November 23rd through an application on my
25 cell phone, and I received it and there was a letter --

H1H5gam2

T. El-Goarany - direct

1 MS. SHROFF: Ob --

2 THE COURT: You can go ahead.

3 A. A letter addressed to me by Samy -- from Samy.

4 Q. I will ask you about that in a few minutes but first I
5 would like to step back and ask you some questions about your
6 family.

7 Who lived in your household growing up?

8 A. My father, my mother, and Samy.

9 Q. What are your parents' names?

10 A. My dad's name is Mohammed El Goarany, and my mom's name is
11 Teresa El Goarany.

12 Q. What language or languages were spoken in your household?

13 A. English.

14 Q. You testified earlier that you attended Goshen High School.
15 Where did your brother Samy attend high school?

16 A. He attended the same high school.

17 Q. And, approximately when did he graduate?

18 A. He graduated in 2008.

19 Q. What were some of the activities your brother Samy
20 participated in while he was in high school?

21 A. He participated in --

22 MS. SHROFF: Objection, your Honor.

23 THE COURT: Overruled.

24 You can answer.

25 A. He participated in some extracurricular activities, namely

H1H5gam2

T. El-Goarany - direct

1 track and field, for a year.

2 Q. Did he attend religious services during that time?

3 A. He did.

4 Q. What religion?

5 A. Islam.

6 Q. How frequently?

7 A. Typically every Friday there was prayer held every Friday,
8 and then some events on the weekends, if there were any.

9 Q. Was he involved in any youth groups?

10 A. Yeah.

11 Q. Which ones?

12 A. The Middletown Islamic Center Youth Group.

13 Q. Describe for us any views your brother expressed about
14 middle eastern politics at that time.

15 A. He had a lot of views on middle eastern politics. He
16 focused predominantly on Egypt and Palestine Israel and Syria.
17 He was critical of the governments that were -- are in place
18 there.

19 Q. Did there come a time when those views became more
20 pronounced?

21 A. Yes.

22 Q. When?

23 A. In 2011, during the Arab spring.

24 Q. What groups did your brother sympathize with in connection
25 with the Arab spring?

H1H5gam2

T. El-Goarany - direct

1 A. He sympathized with the Muslim Brotherhood and -- he
2 sympathized with the entire revolution, if you want to call it
3 that, entirely, but specific groups: Muslim Brotherhood and
4 Hamas and Palestine, even though he was critical of them.

5 THE COURT: Can I stop you for a second and ask
6 Ms. Rivera to take the jury out?

7 (Continued on next page)

H1H5gam2

T. El-Goarany - direct

1 (Jury not present)

2 THE COURT: Mr. El Goarany, you may step down.

3 (Witness steps down)

4 THE COURT: I saw a hand from the jury, someone was
5 trying to get my attention with some urgency, so it may just be
6 a bathroom break.

7 (recess)

8 MS. SHROFF: Your Honor, can we just have a side bar?
9 I don't think it needs to be on the record.

10 THE COURT: Sure.

11 (Discussion off record at side bar)

12 (Continued on next page)

H1H5gam2

T. El-Goarany - direct

1 (Witness resumes stand)

2 (Jury present)

3 THE COURT: Ms. Tekeei.

4 MS. TEKEEI: Thank you.

5 Q. Mr. El Goarany if you can push that microphone closer to
6 you so everyone can hear. Thank you.

7 Before we took a break I asked you what groups did
8 your brother sympathize with in connection with the Arab
9 spring.

10 A. Muslim Brotherhood -- in connection with Arab spring, the
11 Muslim Brotherhood and Egypt.

12 Q. What, if anything, did Samy do after graduating from high
13 school?

14 A. He attended university.

15 Q. Which university or universities did he attend?

16 A. He attended St. John's University for one year and then
17 Baruch College for -- for three years -- three to four years.

18 Q. Did he graduate?

19 A. No.

20 Q. What areas did he study?

21 A. He studied economics.

22 Q. Where did he live while he was in college?

23 A. He lived in Rego Park, Queens.

24 Q. How often did you see him during that time, meaning when he
25 was in college and while you were still in high school.

H1H5gam2

T. El-Goarany - direct

1 A. Typically on the weekends, so frequently. Usually every
2 weekend.

3 Q. Describe what you observed your brother doing during his
4 free time during that time period when he wasn't in classes or
5 studying.

6 MS. SHROFF: Objection to facts included in the
7 question.

8 THE COURT: Overruled.

9 A. He did a lot of things, mainly a lot of reading, made
10 music. He did a lot of things, but mainly reading a lot.

11 Q. I'm sorry, I didn't hear that last part. Mainly reading
12 where?

13 A. A lot, just in general.

14 Q. And in what forums did he do this reading?

15 A. Books, articles, online. He did a lot of reading online of
16 politics and various other things.

17 Q. Describe what social media accounts you observed him using.

18 A. I observed him using Facebook and Twitter.

19 Q. Did you ever observe your brother use a YouTube?

20 A. Yes.

21 Q. What news sources did you observe him reading during that
22 time period?

23 A. Typically Al Jazeera, The Guardian, Huffington Post, Times.
24 It was a lot.

25 Q. Tell us what you did after you graduated from high school.

H1H5gam2

T. El-Goarany - direct

1 A. I attended college.

2 Q. When did you graduate?

3 A. 2010.

4 Q. Where did you live?

5 A. I lived in Goshen when I graduated high school.

6 Q. When you started college, where did you live?

7 A. Rego Park, Queens.

8 Q. With whom?

9 A. Samy and I got an apartment together.

10 Q. Can you describe the apartment in Rego Park that you shared
11 with your brother Samy?

12 A. Yes.

13 It was a studio apartment with a separate kitchen,
14 bathroom. It was relatively small.

15 Q. How often did you see your brother during that time period?

16 A. I lived with him, so all the time.

17 Q. Directing your attention to the summer of 2014, were you
18 living with your brother Samy then?

19 A. Yes.

20 Q. Tell us what you were doing that summer.

21 A. We were on break from school and we were home, which is
22 Goshen, New York.

23 Q. Tell us what Samy was doing that summer.

24 A. It was typical summer, he was home and he was also off from
25 school. Well, yeah, he was off from school.

H1H5gam2

T. El-Goarany - direct

1 Q. Describe his day-to-day activities.

2 A. Relatively the same; reading, hanging out with friends,
3 attending religious services. Stuff like that.

4 Q. Can you describe his behavior during that time period,
5 summer of 2014?

6 A. His behavior was -- it was -- sometimes it was -- it was
7 normal and then other times it changed. He would be more angry
8 or emotional at certain times but it wasn't always like
9 consistent behavior.

10 Q. What was he angry about?

11 A. Situations or conflicts around the world, but mainly in the
12 Middle East.

13 Q. Did he spend time on social media?

14 A. He did.

15 Q. Describe how he spent his time on social media based on
16 your observations.

17 A. I observed him reading and debating -- or reading articles
18 and then debating in comment sections with other people, and
19 also on Twitter debating with other people as well on certain
20 issues.

21 Q. What issues?

22 A. At that time it was mainly about the Syrian civil war, and
23 also Egyptian politics.

24 Q. Tell us what groups he researched online that summer.

25 A. He researched ISIS and the Brotherhood -- Muslim

H1H5gam2

T. El-Goarany - direct

1 Brotherhood -- sorry -- and Hezbollah, Hamas, but yeah, at that
2 time it was mainly ISIS.

3 Q. Describe what Samy told you about ISIS in the summer of
4 2014.

5 MS. SHROFF: Objection, your Honor. Hearsay.

6 THE COURT: Overruled.

7 A. In the summer of 2014 he talked about ISIS a lot and he, at
8 that time, didn't make it aware to me that he sympathized with
9 them, he was just -- we discussed certain acts that they did
10 and he objected to them and critiqued them at that time. So,
11 yeah.

12 Q. Did there come a time when he discussed the caliphate?

13 A. Yes. Yes.

14 Q. Tell us what he said about the caliphate.

15 A. He always -- I mean, he always felt that having a land form
16 for Muslims that was safe and where we -- Muslims can live
17 together harmoniously in accordance with Islamic law and he was
18 researching that for a very long time, but also in the summer
19 of 2014, especially when ISIS declared that they were
20 establishing a new caliphate. So, he -- that's one of the
21 things that sparked his interest.

22 Q. Did there come a time later that summer or early that fall
23 in 2014 when your brother expressed an interest in traveling to
24 Syria to join ISIS?

25 A. Yes.

H1H5gam2

T. El-Goarany - direct

1 Q. Tell us what he said to you and what you said to him.

2 A. He asked me what would I think if he were to join ISIS.

3 And my response was I was shocked, I didn't know why he would
4 ask me a question like that, even hypothetically. And I told
5 him that I didn't agree with the group at all and that I think
6 anybody would be -- definitely it was a wrong decision to make
7 if somebody wanted to join them.

8 Q. Describe what he said about his plans to join ISIS.

9 A. At that time his plans were very, at least when he made a
10 note to me were basic, but his plan was to travel to Istanbul,
11 to Turkey to cross the border into Syria through there because
12 he told me that it was easier or that was the easiest point of
13 access. So, he would go to Istanbul and then he described it
14 as being smuggled into Syria to ISIS.

15 Q. Describe his plan for when he reached Istanbul.

16 A. His plan was to stay in Istanbul in a hotel, is what he
17 called it, a hotel, for a few days, and wait for contacts to
18 get in touch with him and then they would provide transport to
19 smuggle him into Syria.

20 Q. Describe what he said about his contact in Istanbul.

21 A. He was very vague, he didn't tell me any specific details
22 about his contact. He just told me that he had one and that he
23 would get in touch with him to proceed with this plan.

24 Q. Describe what your brother told you what he intended to do
25 when he joined ISIS?

H1H5gam2

T. El-Goarany - direct

1 A. He told me that he wanted to fight with ISIS and to
2 discover or to see the truth, to see the truth about them,
3 about ISIS with his own eyes. So, it was both.

4 Q. Tell us what you did after you learned your brother wanted
5 to join ISIS.

6 A. I was shocked and I didn't really know what to do because
7 he was -- he made it apparent to me that he was serious and
8 that he wanted to do it, he wanted to travel to Syria. I
9 wanted to be someone that he could talk to about it and try to
10 convince him otherwise, so I kept it between us.

11 Q. Who did you tell about his plans at that time?

12 A. At that time I didn't tell anybody.

13 Q. Why not?

14 A. I didn't know how people would or anyone, my parents
15 included, would react and I thought that I could convince him
16 myself and to not alienate him by telling people, even though
17 he told me not to and I thought that I could try and see what
18 he was thinking about to convince him to stay.

19 Q. Had your brother ever traveled outside of the United States
20 by himself prior to that?

21 A. Yes.

22 Q. When?

23 A. Summer 2013 he went to Canada.

24 Q. For what purpose?

25 A. To visit a friend.

H1H5gam2

T. El-Goarany - direct

1 Q. Who?

2 A. Her name was -- is Asma, Asma Omar.

3 Q. Other than the trip to Canada, had he ever traveled outside
4 of the United States by himself?

5 A. By himself? No.

6 Q. What languages did your brother speak before he left New
7 York?

8 A. Only English.

9 Q. What language did he write in before he left New York?

10 A. English.

11 Q. To your knowledge, had he ever fired a gun?

12 A. To my knowledge, no, he did not.

13 Q. To your knowledge, had he ever received any military
14 training?

15 A. No, he did not.

16 Q. Directing your attention to the fall of 2014, describe
17 generally what steps your brother took toward leaving to join
18 ISIS.

19 A. Generally he -- I witnessed certain steps that he took.

20 So, he was destroying his hard drive from his laptop, and
21 purchasing a ticket to Istanbul, and purchasing some gear that
22 he wanted to take with him.

23 Q. I will ask you more about those in a few minutes but during
24 that time period, fall of 2014, what were you doing?

25 A. I was attending school -- college.

H1H5gam2

T. El-Goarany - direct

1 Q. Did you regularly attend classes?

2 A. I did.

3 Q. Was your brother regularly attending classes at that time?

4 A. He wasn't.

5 Q. Earlier you described conversations that Samy had with you
6 about ISIS; where did those conversations take place?

7 A. He -- we discussed in a lot of locations; at our house in
8 Goshen, in Queens, on car rides. We discussed it pretty
9 frequently.

10 Q. When discussing his plan to join ISIS while you were at
11 home what, if anything, did your brother ask you to do?

12 A. He asked -- requested that I turn off my cell phone and he
13 would turn off his cell phone.

14 Q. Why?

15 A. He was afraid of authorities listening in on our
16 conversation about ISIS, so.

17 Q. What about when you were in the car?

18 A. The same. If we were in the car he would request that
19 we -- that I turn off my cell phone.

20 Q. How about if you were in public?

21 A. If we happened to be talking about it in public we would
22 use a code name for ISIS not to say the name out loud.

23 Q. What was that code?

24 A. He used "the company." We just called it "the company."

25 Q. Just to be clear, when in public your brother referred to

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T. El-Goarany - direct

1 ISIS as "the company" during that time period?

2 A. Yeah.

3 Q. I would like you to take a look at Government Exhibit 110-G
4 which is in evidence and in front of you. Do you recognize
5 this?

6 A. Yes, I do.

7 Q. And, generally speaking, what is it?

8 A. It's Facebook messages between my brother and I.

9 MS. TEKEEI: Your Honor, may we publish this to the
10 jury?

11 THE COURT: You may.

12 Q. Ms. Quinones?

13 Directing your attention to this first page, what are
14 we seeing here?

15 A. It's messages that have been encrypted so they don't -- so
16 people on the outside can't read them.

17 Q. What program was used to encrypt these messages?

18 A. Cryptocat.

19 Q. And what were you discussing in these messages?

20 A. We were testing the program out to see how it worked.

21 Q. For what purpose?

22 A. Samy wanted to use the encryption application to conceal
23 what we were talking about if we were talking about ISIS. So,
24 he told me to download this and so we can communicate safely.

25 Q. Turning to page 2 of 110-G, looking at the message --

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T. El-Goarany - direct

1 excuse me -- at the bottom of page 1 leading into page 2,
2 looking at the message sent by Samy Mohammed on October 13th,
3 do you see that message?

4 A. I do.

5 Q. What is that?

6 A. It is something from a blog article that he sent me.

7 Q. What is the title of the article?

8 A. What should you do if the FBI knocks on your door.

9 Q. And who sent that message?

10 A. Samy sent the message.

11 Q. Did you read that article?

12 A. I did.

13 Q. Describe what your brother said to you about why he sent
14 you the article?

15 A. He sent it to me as a precaution just in case the FBI were
16 to come to our house. It described what you could do to not
17 allow them into your house or -- to allow FBI into your house.

18 Q. You can set that to the side for now.

19 Thank you, Ms. Quinones.

20 Mr. El Goarany, you testified that your brother was
21 online a lot; is that correct?

22 A. Yeah.

23 Q. What type of computer did he use during that time period,
24 the fall of 2014?

25 A. It was a -- at that time it was a Dell laptop.

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T. El-Goarany - direct

1 Q. How long did he have that computer?

2 A. Less than a year.

3 Q. Where is that computer now?

4 A. It's -- I actually don't know where it is.

5 Q. What happened to that computer?

6 A. I don't know what happened to that computer but the hard
7 drive was removed from it.

8 Q. Describe what happened.

9 A. So, my -- we were on our way to a friend's house and Samy
10 approached me and said we need to make a stop before we go to
11 our friend's house. He said I need to get rid of my hard drive
12 from my laptop. And when I asked him why, what was on there
13 that he needed to get rid of, he just told me that they --
14 there were files on there that needed -- that he didn't want
15 to -- I don't know if he wanted to get rid of them, to dispose
16 of them so no one could know any plans about his trip.

17 So, we drove to -- towards our friend's house and
18 disposed of the hard drive.

19 Q. How did he dispose of the hard drive?

20 A. Before we reached our friend's house there was a dumpster
21 on a farm, so he decided to destroy it there. And he pulled
22 over to the side, got out of the car, got the hard drive from
23 the car in the back seat and jumped into the dumpster, it was
24 an empty dumpster, and smashed the hard drive on the ground --
25 on the dumpster floor and then jumped back out and we proceeded

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T. El-Goarany - direct

1 to our friend's house.

2 Q. Approximately when did this happen?

3 A. Approximately late September, early October 2014.

4 Q. You also described how your brother purchased a ticket, a
5 flight; how do you know that?

6 A. I was there.

7 Q. Tell us what happened.

8 A. Samy asked me if I wanted to come with him to purchase the
9 ticket for his travels to Turkey, so he wanted me to go with
10 him to JFK.

11 Q. Why did you go with him?

12 A. At this point he was clearly moving forward with his plans
13 so I wanted to be someone he could talk to and to try to not
14 only see parts of his plan but to convince him otherwise to --
15 not to leave. And, I wanted to spend as much time with him as
16 possible.

17 Q. How did you get there?

18 A. We took the subway to the AirTrain and then the AirTrain to
19 JFK.

20 Q. Tell us what your brother did when he arrived at the
21 airport.

22 A. We went to Terminal 1, which is where Turkish Airlines is,
23 and we went to the Turkish Airlines desk and Samy went ahead
24 and purchased the ticket.

25 Q. Did he tell you why he was going to the Turkish airlines

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T. El-Goarany - direct

1 counter?

2 A. He didn't tell me why he chose that specific airline, that
3 he just -- I don't know.

4 Q. What was his destination?

5 A. Turkey. Istanbul.

6 Q. What type of ticket did he purchase?

7 A. He purchased a round-trip ticket.

8 Q. What were you doing while he was purchasing the ticket?

9 A. After he started talking to the -- to the person he was
10 purchasing the ticket from I stood off to the side.

11 Q. And describe what he told you about why he was not
12 purchasing a one-way ticket.

13 A. He wanted to make it seem or look like he was coming back.
14 He thought that purchasing a one-way ticket would be
15 suspicious.

16 Q. How did he purchase the ticket -- excuse me. Strike that.

17 How did he pay for the ticket?

18 A. He paid for it in cash.

19 Q. Did Samy have a job at that time?

20 A. Yeah, he did.

21 Q. And where had he worked or did he work?

22 A. He worked at a Sears as a sales associate.

23 Q. What, if any other sources of income, did he have?

24 A. He received financial aid, and my parents.

25 Q. Do you know for what dates he purchased the tickets?

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T. El-Goarany - direct

1 A. I don't. I don't remember. I don't remember when he -- I
2 don't remember.

3 Q. Did he take the flight that he purchased?

4 A. No.

5 Q. Why not?

6 A. Because my mom discovered the tickets and confronted him
7 about it.

8 Q. How do you know that?

9 A. I was there when they had that conversation.

10 Q. What, if anything, did your brother say about his plans to
11 your mother?

12 A. He lied to my mom and said that he was going to Syria
13 for -- or to Turkey because she didn't know that he was going
14 to Syria -- that he was going to Turkey to help refugees that
15 have come into Turkey.

16 Q. After your mother confronted him about the ticket, describe
17 what Samy said about his intentions to travel to Syria.

18 A. He told my mom and me that he didn't want to travel
19 anymore.

20 Q. Did there come a time when he began discussing his
21 intention to travel again?

22 A. Yeah.

23 Q. Describe what he said.

24 A. It was roughly three to four weeks after that conversation
25 with my mom and he said that he thought about it a lot and he

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T. El-Goarany - direct

1 still feels -- felt -- that he wanted to travel to Syria.

2 Q. If you could take a look back at Government Exhibit 110-G
3 and turning your attention to page 2 in the middle of the page
4 there is a message. Who sent that message?

5 A. Samy did.

6 Q. When?

7 A. November 27, 2014.

8 Q. And what is the message that he sent?

9 A. It's a blog post about the caliphate.

10 Q. What is the caliphate?

11 A. Generally, to my understanding it is -- I don't know how to
12 describe this. It's where Muslims are governed under one
13 system and protected by one system in general.

14 Q. Describe what your brother said about why he sent you that
15 article.

16 A. Like I said before, he was always interested in researching
17 and understanding the idea of -- the possible idea of forming a
18 caliphate, and he sent me that article because it was about
19 discussing the history of ideas about the caliphate in more,
20 like, modern terms, like more modern groups that expressed that
21 same desire. Contemporary groups. Sorry.

22 Q. After your brother started talking again about traveling to
23 Syria to join ISIS, tell us what he did to prepare.

24 A. After he told me he still wanted to travel he wanted to
25 purchase some equipment or gear to travel with.

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T. El-Goarany - direct

1 Q. Describe what he said about what he intended to purchase.

2 A. He intended to purchase boots -- he described them like
3 combat-style boots, some pants, socks, and a water bottle, like
4 a refillable water bottle, and a camel bag.

5 Q. Did he purchase those items?

6 A. Yeah.

7 Q. How do you know that?

8 A. I was with him when he purchased them.

9 Q. Describe what happened.

10 A. He wanted to go -- he asked me if I wanted to come with him
11 to an outdoor store that's near our -- where we live in Goshen
12 to purchase the items that I listed and I agreed because I --
13 so -- so, I went with him to the store.

14 Q. How did he get to the store?

15 A. I drove him to the store. We drove to the store.

16 Q. Why did you go with him?

17 A. Because I wanted to talk to him, with him as much as
18 possible.

19 Q. You testified earlier that your brother left for Syria in
20 January of 2015. Do you recall when in January he left?

21 A. Yeah. He left to Turkey late January, so January -- he
22 left -- took a flight January 28th. The last time I saw him
23 was January 20th to -- I don't know the exact date but 20th or
24 21st.

25 Q. Where were you when you last saw him?

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T. El-Goarany - direct

1 A. We were home in Goshen and I drove him to the train station
2 to go back to Queens.

3 Q. Describe his demeanor when he left.

4 A. He was very depressed. He was sad. And the last time I
5 saw him -- yeah, he was sad. Yeah.

6 Q. Did you go back to your Queens apartment after he left?

7 A. I did.

8 Q. When?

9 A. The semester started for me on January 28th on a Wednesday
10 so I went back early morning.

11 Q. What did -- what, if anything, did you notice when you got
12 there?

13 A. I noticed that Samy wasn't in the apartment and some of his
14 belongings were missing.

15 Q. Like what?

16 A. His laptop, his backpack, his jacket, and the items that I
17 witnessed him purchase -- the boots, pants, socks and water
18 bottle.

19 Q. What type of laptop was missing?

20 A. It was an HP laptop.

21 Q. After he left, when was the next time you heard from him?

22 A. January 28th, that night.

23 Q. Directing your attention back to Government Exhibit 110-G
24 in front of you, looking at page 3, do you see the message that
25 Samy Mohammed sent on January 28th at 17:33?

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T. El-Goarany - direct

1 A. Yes.

2 Q. Please read that.

3 A. I'm in my hotel, bro. If mom and dad ask where I am, where
4 I'm at, just say I won't be able to have dinner with y'all
5 tonight because I'm chilling with my friends in school.

6 Q. Just below --

7 A. Sorry.

8 Q. No, no. That's okay.

9 Can you read the next message beginning at 17:49?

10 A. I don't know how I'm gonna prevent her from calling you.

11 MS. SHROFF: I'm sorry, your Honor. I didn't catch
12 that.

13 THE COURT: Can you speak up, Mr. El- Goarany?

14 THE WITNESS: Yes.

15 A. I don't know how I'm gonna prevent her from calling you.

16 Q. And then the next one?

17 A. Thank God you are okay, though.

18 Q. Turning the page to the top of page 4, can you read the
19 next three messages from your brother on January 28th?

20 A. I'm fine, bro. Don't worry about me. As for mom, if she
21 complains that I ain't answering, just say I'm with my friends
22 and I wasn't at my phone or something. That should hold her
23 off for now.

24 Q. How did you respond?

25 A. She might call me and ask to speak to you. I see what

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T. El-Goarany - direct

1 you're saying but at the same time, Ahmed and I think it's best
2 to deny us even knowing anything.

3 Q. Who is Ahmed that you refer to in this message?

4 A. My cousin.

5 Q. And then looking at the bottom of page 4, turning to the
6 top of page 5, the message that Samy sends you on January 28th
7 at 17:54, can you read that message?

8 A. Sure.

9 Let's take this to PQ Chat, bro.

10 Q. What is PQ Chat?

11 A. It's an application on a cell phone, iPhone, it is an
12 encryption messaging application.

13 Q. After you received this Facebook message, did you exchange
14 PQ Chat messages with your brother?

15 A. Yes.

16 Q. Describe what Samy told you about what he was going to do
17 next.

18 A. He told me that he was going to be waiting at his hotel for
19 the next couple days waiting for his contacts to reach him and
20 to provide the transportation.

21 Q. Looking at the very next message, January 29th at 14:51,
22 read what Samy wrote you.

23 A. Salam, bro. I just want to let you know that I'm I safe
24 and I'm about to head out in a bit. Let mom and dad know that
25 I will reach them in three days max to let them know I'm safe.

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T. El-Goarany - direct

1 I'll be too busy to do so before then but I promise I will
2 reach them. Don't worry.

3 Q. Do you have an understanding of what is meant by "about to
4 head out in a bit"?

5 MS. SHROFF: Objection.

6 THE COURT: Overruled.

7 A. Yeah. He meant that he was leaving his hotel room at that
8 moment to do something. I don't know. I don't know what he
9 was doing.

10 Q. When was the next time you received a communication from
11 Samy?

12 A. The following day.

13 Q. Directing your attention -- we are still on page 5 of
14 110-G, a message that you sent to your brother at 17:23 on
15 January 30th; can you read those two messages that you sent
16 him?

17 A. What's up? Thank God you're okay.

18 Q. How does Samy respond?

19 A. I'm good, man. Elhamdulillah. Everything is going to
20 plan.

21 Q. What did you understand him to mean when he said everything
22 is going to plan?

23 MS. SHROFF: Objection.

24 THE COURT: Overruled.

25 A. Just that his plan was moving forward, the plan to travel

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T. El-Goarany - direct

1 to Syria. That's all I understood from that. He didn't tell
2 me in specifics.

3 Q. The plan to travel to Syria to do what?

4 A. To join ISIS.

5 Q. What is elhamdulillah?

6 A. It means thank God in Arabic.

7 Q. If you can turn the page to the next message after your
8 wrote everything is going to plan at the top, can you read that
9 for the jury?

10 A. PQ Chat me when you can.

11 Q. Did you have -- did you exchange PQ Chat messages with Samy
12 after receiving that on January 30th?

13 A. I did.

14 Q. Describe what he told you about what he intended to do.

15 A. He told me that he was waiting for contact and that after
16 he received the contact, which he did, eventually, he was
17 transported, somehow, smuggled into Syria and taken to a safe
18 house of sorts.

19 Q. When was the next time you heard from him?

20 A. The next time I heard from him was a few days after or a
21 day after.

22 Q. Before we get to that, I think you just said that he told
23 you he had made contact. Describe what he said.

24 MS. SHROFF: Objection.

25 THE COURT: Overruled.

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T. El-Goarany - direct

1 MS. SHROFF: She's testifying.

2 THE COURT: Go ahead.

3 BY MS. TEKEEI:

4 Q. Let me just -- I can reask the question.

5 A. Sure.

6 Q. Describe what he said about having made contact.

7 A. He reached out to me on PQ Chat and told me that he was
8 being transported to -- he didn't know where and he didn't tell
9 me where he was because he didn't know where he was being
10 transported to. All he told me was he was being transported to
11 a safe house is what he called it, a safe house that they were
12 keeping him at.

13 Q. Okay. Directing your attention back to 110-G on page 6,
14 the message that begins on February 16th, 2015 at 13:41; do you
15 see that message?

16 A. I do.

17 Q. Can you please read it?

18 A. Sure.

19 I'm so sorry for the sudden disappearance, man. I've
20 got a lot of explaining to do but first off I just want to say
21 that I'm sorry for not being aware about the protocol in my new
22 company. Hours after our last PQ Chat conversation I had my
23 phone and laptop taken from me by the company for safety
24 reasons. They're going to give it back to me after my training
25 is over, inshAllah. Right now I am going through the religious

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T. El-Goarany - direct

1 training which will end in nine days. And then I'm going to be
2 enrolled in in my main training course which will take a month
3 to complete.

4 Q. Can you read the next message from him?

5 A. Sure.

6 After that I'll be a regular employee and they'll give
7 me back all my stuff and I can contact you 24/7 like I did
8 before. That'll probably be around the end of March to
9 mid-April.

10 Q. Do you have an understanding of what is meant by the
11 protocol in my new company?

12 MS. SHROFF: Objection.

13 THE COURT: Overruled.

14 A. I didn't know what that meant. I didn't know -- yeah, I
15 didn't know what that meant at the time.

16 Q. How about "new company?"

17 MS. SHROFF: Objection.

18 THE COURT: Overruled.

19 A. It was just a code name for ISIS, so I understood that to
20 mean ISIS.

21 Q. And he writes: Hours after our last PQ Chat
22 conversation...

23 Which PQ Chat conversation do you understand that to
24 be referring to?

25 A. It refers to the one I said about the safe house. That was

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T. El-Goarany - direct

1 the last time he reached out to me.

2 Q. And he writes: I had my phone and laptop taken from me by
3 the company for safety reasons. They're going to give it back
4 to me after my training is over.

5 Do you have an understanding of what is meant by
6 training?

7 A. I understood that to mean his military training. That's
8 what I took it to mean because I didn't know that they were
9 doing religious training. I mean, he said it there but I -- so
10 I understood it as military training, combat training.

11 Q. And then in the last sentence of that message where he
12 writes: Enrolled in my main training course.

13 Do you have an understanding of what is meant by that?

14 A. At the time I just assumed it was it in the combat
15 training.

16 Q. And then in the next message where he writes: After that,
17 I'll be a regular employee.

18 Do you have an understanding of what is meant by that?

19 A. Yeah. I understood that to mean that he would be a fighter
20 with ISIS.

21 Q. I'm going to ask you some more questions about what
22 happened after that in a few minutes but first I want to ask
23 you some questions about your testimony here today.

24 Did you talk to the FBI after your brother Samy left
25 for Syria?

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T. El-Goarany - direct

1 A. Yes.

2 Q. Who was at those meetings?

3 A. Typically the agents and me.

4 Q. When you first met with the agents, describe what you told
5 them about Samy's whereabouts.

6 A. I lied to them and I told them that Samy was helping
7 refugees.

8 Q. Tell us why.

9 A. I was scared to tell the FBI the truth because I didn't
10 know what would happen to my family or to me if I told them
11 that I had knowledge of my brother joining ISIS.

12 Q. Tell us what, if anything else, you did to hide that your
13 brother left to join ISIS from the agents.

14 A. I deleted messages between Samy and I on Facebook.

15 Q. When was the first time you told the agents that he had
16 joined ISIS in Syria?

17 A. I concealed that information for a while and I didn't -- I
18 didn't tell the truth until summer -- early summer -- early
19 summer 2015.

20 Q. Explain why you decided to tell the truth.

21 A. I was confronted by the agents very candidly and they told
22 me that you need to -- we know that you've been lying and you
23 need to tell the truth, because obviously it is a felony and it
24 is a very serious one. And if you tell the truth right now
25 about everything that you know, we'll proceed. And so, I told

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T. El-Goarany - direct

1 the truth.

2 Q. Are you testifying here today pursuant to an agreement with
3 the government?

4 A. Yes.

5 Q. Describe, generally, the terms of that agreement.

6 A. That if I cooperate and tell the truth, fully, that I will
7 not be prosecuted for lying to the FBI and other -- other
8 things that I have done to help Samy.

9 MS. SHROFF: Your Honor, I'm sorry. We can't hear.

10 THE COURT: Can you repeat that last part,
11 Mr. El- Goarany? Please keep your voice up and speak directly
12 into the microphone, if you would.

13 THE WITNESS: Sorry. I will.

14 A. I won't be prosecuted under this agreement I won't be
15 prosecuted if I cooperate fully and tell the truth and I won't
16 be prosecuted for lying to the FBI and for aiding my brother in
17 certain things.

18 Q. Let me draw your attention now to what is marked for
19 identification as Government Exhibit 1012. I think it is in
20 front of you.

21 MS. TEKEEI: Your Honor, may I approach?

22 THE COURT: You may.

23 Q. Do you recognize that document?

24 MS. SHROFF: Your Honor, we have no objection to
25 admitting it into evidence.

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T. El-Goarany - direct

1 THE COURT: Okay. Just describe what it is.

2 A. It's the non-prosecution agreement that I'm --

3 Q. Is that your signature on the last page?

4 A. Yes, it is.

5 Q. Who else signed that agreement?

6 A. My lawyer Andrew Patel and the prosecution -- prosecutors
7 in this case.

8 MS. TEKEEI: Your Honor, we offer Government Exhibit
9 1012.

10 THE COURT: And there being no objection, it will be
11 received.

12 (Government's Exhibit 1012 received in evidence)

13 BY MS. TEKEEI:

14 Q. Describe what you did prior to signing that agreement.

15 A. I attended meetings with the prosecution and the FBI and
16 told the truth as to what happened.

17 Q. Was your attorney present at those meetings?

18 A. He was.

19 Q. What are your obligations under this agreement?

20 A. To tell the truth and cooperate fully.

21 Q. What happens if you lie?

22 A. I will be prosecuted by the government -- by -- by the
23 government.

24 Q. In exchange for your truthful testimony, what does the
25 government promise you to do under this agreement?

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T. El-Goarany - direct

1 A. That I won't be charged for any crimes related to this --
2 what I am being -- what's on the agreement, the laws that I
3 have broken.

4 Q. Does the outcome of this case have any effect whatsoever on
5 your agreement?

6 A. No.

7 Q. Setting that to the side, sir, if you could direct your
8 attention back to 110-G, we were looking at the communication
9 from your brother on page 6 on February 16th. Approximately
10 when was the next time you received a communication from Samy?

11 A. Spring 2015, so it was May 2015.

12 Q. Thank you. You can put that to the side.

13 Showing you what is in evidence as Government Exhibit
14 111-C; do you recognize that?

15 A. Yes.

16 MS. TEKEEI: Your Honor, it looks like we published
17 it. May we publish it to the jury?

18 THE COURT: You may.

19 MS. TEKEEI: Thank you.

20 Q. Looking at the bottom, the message that begins with the
21 date May 5th, 2015 at 10:35 and turning to the next page, who
22 sent that message?

23 A. I did. I'm sorry, can you --

24 Q. Yes, of course.

25 A. What page?

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T. El-Goarany - direct

1 Q. The bottom of the first page, it begins at the bottom of
2 the first page and goes into the top of the second page.

3 A. Right. Samy did, yes.

4 Q. Please read that.

5 A. Salam alaikom wa rahmatullahi wa barakatuh, bro. Wallahi
6 forgive me, Wallahi forgive me, Wallahi forgive me. So much
7 has happened to me last April that was out of my control. I
8 tried my best to reach you but it was impossible. And I felt
9 like a piece of shit every day I failed to keep my promise to
10 you and I prayed to Allah (Azza wa Jal) to keep you and the fam
11 strong and patient during your wait. I hope my prayers were
12 answered. I'm free now, bro, elhamdulillah, but I'm not always
13 available during the day because I still don't have my phone or
14 any laptop. I will get them back in another month or two.
15 It's a long story, I'll explain to you later, plus electricity
16 is a problem here. I want to call you, though, through the
17 phone I'm using now. I can do so via WhatsApp so download
18 WhatsApp and make sure you always have your notifications on
19 for it.

20 Q. What is meant by electricity is a problem here?

21 A. He meant -- Samy meant that electricity would go on and
22 off, it wasn't consistent where he was, and it was difficult to
23 keep a constant source of electricity.

24 Q. What is WhatsApp?

25 A. It's an application on the phone that is used for free

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T. El-Goarany - direct

1 international calls and texts.

2 Q. Did he use WhatsApp to communicate with you during the time
3 that he was in Syria?

4 A. Yes, he did.

5 Q. How frequently?

6 A. In the beginning when I got in contact with him we didn't
7 use it, but later on we used it pretty frequently.

8 Q. Were there times when you had -- during that time period
9 that your brother was in Syria, were there time periods when
10 you had no communications with him whatsoever?

11 A. Yes.

12 Q. And then were there other time periods where when you were
13 able to communicate with him?

14 A. Yeah.

15 Q. Looking at the very next message, the one beginning at
16 11:33 that same day, May 5th, 2015; please, read that.

17 A. There is so much I want to tell you but it's best I do it
18 over the phone because it will take forever for me to text you
19 all of this. All you need to know is that my training is
20 getting more advanced than was originally planned and that this
21 is the righteous group. Wallahi bro, they are upon on the
22 truth and I only say that because I finished the Quran for
23 myself and came to my own conclusion that no one obeys the
24 commands of Allah like them. This is the truth and I will go
25 into details more when we talk. InshAllah.

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T. El-Goarany - direct

1 Q. Do you have an understanding of what is meant by training
2 is getting more advanced?

3 A. At the time I didn't know what that meant, what he meant by
4 that.

5 Q. Did there come a time when you did have an understanding of
6 what was meant by that?

7 A. Yeah. Yes.

8 Q. What was that?

9 A. He meant in terms of combat training, more advanced
10 military training.

11 Q. What is the righteous group?

12 A. He meant it in the context of a group that's -- in Islam
13 it's talking about a group that kind of ushers in the sort of
14 coming together of Muslims to bring and unify all Muslims under
15 one government or group and that's what he meant by that.

16 THE COURT: It's now 11:30. I owe the jury their
17 actual break so let's break for 15 minutes.

18 Ladies and gentlemen, do not discuss the case, do not
19 read any media coverage of the case, and do not do any research
20 yourselves. 15 minutes.

21 (Continued on next page)

H1H5gam2

T. El-Goarany - direct

1 (Jury not present)

2 THE COURT: Any work for me?

3 MS. SHROFF: Your Honor, we continue to have trouble
4 hearing. I'm sorry, but --

5 THE COURT: Very well. We will keep bothering
6 Mr. El- Goarany to speak up.

7 MS. SHROFF: Thank you.

8 THE COURT: Okay. 15 minutes.

9 (Recess)

10 (Continued on next page)

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H1H5gam2

T. El-Goarany - direct

1 (Jury present).

2 THE COURT: Everyone, please, be seated.

3 Ms. Tekeei, you may continue.

4 Mr. El- Goarany, please make sure you are right on top
5 of that microphone.

6 THE WITNESS: Okay.

7 MS. TEKEEI: Thank you, your Honor.

8 BY MS. TEKEEI:

9 Q. We were looking at Government Exhibit 111-C. If you can
10 turn the page to the bottom of page 4, the communication that
11 begins on May 6th at 11:04. Who is that from?

12 A. That's from Samy.

13 Q. Please read it.

14 A. That's good, man. Elhamdulillah. Everything is better
15 than I expected. By the way, I had a great convo with dad
16 yesterday and he knows that I'm in the company now (which I
17 wasn't expecting) but he took it so well.

18 Q. And again, what is the company?

19 A. Samy is referring to ISIS.

20 Q. Describe what is meant by had a great convo with dad
21 yesterday.

22 A. Samy had a conversation with my dad on the phone while my
23 dad was in Turkey.

24 Q. Approximately when did your dad travel to Turkey?

25 A. In May. I don't recall the exact dates, though.

H1H5gam2

T. El-Goarany - direct

1 Q. Describe what he said about what he intended to do in
2 Turkey.

3 A. He intended to find Samy and find out what happened to Samy
4 and the steps he took in his travel to Syria.

5 Q. Turning to page 5 of 111-C, looking at the message on May
6 6, 2015 at 11:07, can you read the next two messages, that one
7 and the next one?

8 A. 11:07?

9 Q. Yes.

10 A. From some literature?

11 Q. Beginning with "I want to start...

12 A. I want to start giving you some stuff to read inshAllah, by
13 the way. Some literature from scholars about the deen, stuff
14 that I learned during my training here.

15 Q. What is the deen?

16 A. I understand it to mean Islam with all the, with rules and
17 the rules pertaining to Islam and information about how we
18 proceed through rituals and how we proceed, as Muslims, through
19 certain things that Muslims practice.

20 Q. Did there come a time when your brother began providing you
21 with literature he had learned about during his religious
22 training with ISIS?

23 A. Yes.

24 Q. Describe, generally, the types of materials he sent you.

25 A. He sent me two PDF -- books in PDF format talking about a

H1H5gam2

T. El-Goarany - direct

1 whole range of things; politics, religion. And then he sent me
2 lessons in a word doc -- a document that he learned over there
3 in Syria.

4 Q. Turning the page to page 6 beginning at the message on May
5 6 at 11:12 -- actually, let me back up, please. The message
6 that begins at 11:11:01 on May 6, beginning with: But here...
7 can you please read that message?

8 A. But here it's different, bro. The brothers care about each
9 other and take care of each other. We have a sense of purpose.
10 We always pray, we always act according to the Sunnah. It's
11 the way Allah wanted us, as human beings, to live.

12 Q. Do you have an understanding of what is meant by "we"?

13 A. Yes. He means Muslims.

14 Q. And who are the brothers?

15 A. The other fighters that he lived with and interacted with.

16 Q. Going down to the message that is sent on May 6th, 2015 at
17 11:12, can you please read beginning at: I know?

18 A. I know a lot of crazy stuff has happened and I know you're
19 aware of what's on the media and how everybody back home is
20 reacting to the news, but I don't need to remind you how the
21 media lies and how things aren't what they seem.

22 Q. And the next one?

23 A. It's not a Utopia, bro, we have problems, but believe me
24 when I say the good is more than the bad. Way more.

25 Q. Turning to page 11 of 111-C, can you read the message that

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T. El-Goarany - direct

1 begins with -- the messages that we begin with ya, bro, that
2 your brother sends you on May 6th?

3 A. Sure.

4 Ya, bro, that's another thing. We come from comfort
5 but so many guys I met here, subHanAllah, they've seen so much
6 and been through to much. It makes you understand why they are
7 the way they are. There is a lot to it but, inshAllah, we'll
8 go into more detail when we speak on the phone. Is there
9 anything you want to know in particular about my situation or
10 the environment or the company?

11 Q. What is meant by my situation or the environment?

12 A. Samy meant about what he does daily and his duties being a
13 part of ISIS; and his environment, just what he sees, who he
14 interacts with, generally where he is living.

15 Q. Describe what he told you about his day-to-day activities
16 in ISIS during this time period, May of 2015.

17 A. Samy told me that he was -- at the time he was living with
18 a few other, he calls them brothers, a few other people in a
19 house and he would do his daily tasks included when he wasn't
20 patrolling or guarding the nearby areas in the town that he was
21 in. He would -- like taking care of the house, getting the
22 food or cleaning. They were all designated -- they all
23 designated for themselves tasks and then also from higher-ups,
24 too.

25 Q. Turning the page to the message on page 12 that is sent at

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T. El-Goarany - direct

1 11:38 on May 6th; please, read that.

2 A. At 11:38? Sorry.

3 Q. Yes; at 11:38 in the middle of the page.

4 A. That's basically my situation now inshAllah until I get
5 married. And we generally go around, eat like normal, chill in
6 cafes like normal people, and hit up the Masjid for every
7 single Salaat.

8 Q. Describe what Samy told you about the process for getting
9 married.

10 A. The way he described it to me was that people would put
11 their names on a list to -- in order to get married, a list
12 that was provided to them from -- he didn't really tell me
13 where but it was provided from the higher-ups, and you would
14 have to wait until your turn to be given the permission to
15 marry.

16 Q. Describe any other lists that he told you about.

17 A. There was another list he told me about which entailed
18 people, or in this case the fighters of ISIS volunteering to
19 sign up to commit terrorist acts, in this specific case suicide
20 bombing.

21 Q. Looking at the message just below that, on May 6th also at
22 11:38:47, please, read that.

23 A. I'm going to have more advanced training before I get hit
24 with real live job assignments, by the way. I haven't had real
25 work yet, just living amongst the rest of the brothers.

H1H5gam2

T. El-Goarany - direct

1 Q. Describe what is meant by more advanced training.

2 A. He, later on at this point -- later on he explained to me
3 that he meant more advanced military training, more advanced
4 training exercises and weapons training.

5 Q. And turning to the next page, sorry, the bottom of page 12
6 leading into the top of page 13, do you see the message that
7 you sent at 11:39?

8 A. Yes.

9 Q. It's in the form of the a question. Can you read that?

10 A. Sure.

11 You know how long the advanced training will take and
12 what not?

13 Q. And can you read his response in the next four messages?

14 A. Probably a month but it won't start for a while. So, we'll
15 have time to talk before I go back to training. Once I'm in
16 training, though, I'll be cut off. Elhamdulillah, once I'm
17 finished, though, I'll have my own phone and my own laptop and
18 a more flexible schedule to hit you up.

19 Q. Turning to page 14 at the message that begins at 11:43 at
20 the top, can you read that? Beginning with: "It is never...?"

21 A. Yes. It's never a guarantee here because it's a new
22 company, you know that, and things aren't always organized.
23 Sometimes they need to send us places at a moment's notice.

24 Q. And what is meant by sometimes they need to send us places
25 at a moment's notice?

H1H5gam2

T. El-Goarany - direct

1 MS. SHROFF: Objection.

2 THE COURT: Overruled.

3 A. What he meant by that -- what Samy meant by that is
4 sometimes the fighters would be sent to, or deployed on
5 assignments in terms of combat assignments if the higher-ups
6 decided it so.

7 Q. And just below that, the message starting at 11:45
8 beginning with Ramadan, can you read the next four messages?

9 A. Ramadan here is not relaxing, ha ha. The most work goes
10 down in Ramadan. Expect to see some crazy events go down. But
11 inshAllah everything will work itself out, bro. Allah is
12 watching over all of us here and we're only getting stronger.

13 Q. Turning the page to page 15, beginning with the message
14 that starts at May 6 at 11:48 from your brother, can you read
15 that first message?

16 A. Nothing will stop what we are set to do here B'ithnillah.

17 Q. And then the message two lines down or two sections down
18 that we begins with it is, bro; can you read that?

19 A. It is, bro. Don't worry. It is. And you know, we're only
20 humans. Nothing is perfect except Allah subhanahu wa ta 'ala.
21 On top of that, even the Sahabah made mistakes and they were
22 much better men than we'll ever be. So, be patient the with
23 brothers here, bro.

24 Q. And then the next message beginning with the line:
25 Wallahi.

H1H5gam2

T. El-Goarany - direct

1 A. Wallahi, this is the company of the truth and it's only
2 capable of protecting us from these devils.

3 Q. Turning the page to page 16 at the very bottom, the message
4 that begins at 12:00 on May 6, can you please read that?

5 A. The company is new and it will grow and mature as it
6 expands. So, just have faith, pray for its employees, and seek
7 knowledge for yourself, bro. Please read the Quran. It's as
8 simple as going to Quran.com and reading just 10 verses each
9 day. Please promise me you will do this, it's literally like 5
10 minutes out of your day and it will give you the answers you're
11 looking for.

12 Q. And do you have an understanding of what is meant by the
13 company is new, it will grow and mature as it expands?

14 A. Samy meant that ISIS is a new or newer organization and
15 that it will, in his idea, his view, it will expand and get
16 more -- what he means by mature is more organized and more --
17 more organized.

18 Q. Turning to page 19 at the bottom message that is sent from
19 Samy to you on May 6th at 12:12; can you please read that?

20 A. Sure.

21 And there are different opinions on it from what I've
22 read (I need to learn more, to be honest) but in all honesty,
23 it's good to be detoxed from it.

24 Q. And the following message?

25 A. Bro, we are literally warrior monks here.

H1H5gam2

T. El-Goarany - direct

1 Q. Do you have an understanding of what is meant by "warrior
2 monks?"

3 A. Yes. He -- it means, to my understanding, that he was
4 referring to the fighters, that they are fighters but also live
5 in accordance with Islamic -- or in their view Islamic
6 principles.

7 Q. Directing your attention to Government Exhibit 112-B which
8 is also already in evidence, do you recognize this?

9 A. Yes.

10 Q. And how do you recognize it?

11 A. It's messages between my brother and I that we had.

12 Q. Looking at the first message on May 12th, 2015 at 19:19 --
13 excuse me, 19:09; please, read that.

14 A. Bro, so sorry I've been MIA for the last five days. My
15 second phase of training begins tomorrow inshAllah and it's
16 going to take a month before I'm done. So, you won't be
17 hearing from me for a while but, rest easy, I just got my phone
18 and my laptop back so, inshAllah, I'll be hitting you up a lot
19 more regularly without a problem once I'm done. I'll have more
20 control over my communication capabilities inshAllah. Just
21 giving you a heads up so you don't worry too much during my
22 absence. I'm sorry, bro. Life here is never not busy so I
23 just ask that you and the rest of the fam bear with my
24 situation patiently. Elhamdulillah I'm glad I got to reach you
25 and I hear your voices earlier this week. I'm sure it will

H1H5gam2

T. El-Goarany - direct

1 make this next phase easier for you guys to deal with.

2 Q. Had you had a conversation with Samy around the time of
3 this message?

4 A. Yes.

5 Q. And describe what he told you about what he refers to here
6 about the second phase of training.

7 A. At this time he was -- he didn't tell me every detail but
8 what he did tell me was it was just more military --
9 military-style training. That's pretty much how he categorized
10 it as.

11 Q. Describe what weapons he used.

12 A. When he -- during weapons training he used an AK-47 that he
13 trained with.

14 Q. Describe what he did training with that weapon.

15 A. It was -- after the training was complete it was given to
16 him as like his own personal weapon and he would use that
17 weapon during his patrols -- not actually use it but have it --
18 sorry -- have it with him on his patrols in the town that he
19 was in, and also when he eventually went into combat.

20 Q. Earlier you testified about a conversation you had with
21 agents in this case, in I think you said the early summer or
22 spring of 2015. Do you recall that testimony?

23 A. I do.

24 Q. What, if any instructions, did the agents provide you
25 during that conversation?

H1H5gam2

T. El-Goarany - direct

1 A. They told me to keep communication open and to be -- and to
2 act normally when I spoke to Samy, not to alienate him or to be
3 overly aggressive.

4 Q. Did you follow those instructions?

5 A. Yes, I did.

6 Q. Why?

7 A. I agreed with that approach. I didn't want to stop talking
8 to my brother and -- in the hopes that he may leave that
9 organization or return. I had to keep communicating with him
10 in order to do that and he is my brother and I wanted to talk
11 to him.

12 Q. Looking back at 112-B, the next message on June 28, 2015 at
13 13:33, please, read that.

14 A. Salam alaikom bro. I'm free to pick up where we left off
15 yesterday. You're probably asleep right now, but that's cool.
16 I'll be available later today anyway, so inshAllah I want to
17 start talking about some of the things I've learned in my
18 training here.

19 Q. Do you recall having a conversation or discussion with Samy
20 in June -- toward the end of June 2015?

21 A. I don't recall that specific conversation. We did talk. I
22 don't recall, like, the specifics of it. We had a lot of
23 conversations. It is hard to differentiate.

24 Q. Fair enough.

25 In June and July of 2015 describe what, if anything,

H1H5gam2

T. El-Goarany - direct

1 Samy told you about what he was doing with ISIS then.

2 A. He told me more about his day-to-day activities and then
3 eventually he told me that he would be deployed -- deployed to
4 combat, eventually.

5 Q. What day-to-day activities with ISIS did he describe?

6 A. His main job was patrolling the streets or wherever they
7 positioned him. He never really -- he never disclosed
8 specifics but he also, in terms of doing chores around the
9 house that he was living in, and on his downtime he would go to
10 Internet cafes and regular cafes to talk to the other fighters
11 there and to eat and do normal things.

12 Q. You just mentioned Internet cafes; is that how he was able
13 to communicate with you?

14 A. Yeah. That was the only way he was able to communicate
15 with me. He had to get a connection through the Internet -- it
16 was a process where he had to pay for it by the megabyte so he
17 had to be at the Internet cafe in order to talk to me on
18 Facebook or on the phone.

19 Q. Showing you what's in evidence as Government Exhibit 902.

20 Your Honor, may we publish this to the jury?

21 THE COURT: You may.

22 MS. TEKEEI: Thank you.

23 Q. Do you recognize this?

24 A. Yes, I do.

25 Q. Who is that?

H1H5gam2

T. El-Goarany - direct

1 A. That's my brother Samy.

2 Q. Did you receive this picture?

3 A. Yes, I did.

4 Q. How did you receive it?

5 A. Through -- I believe through WhatsApp but I can't be sure
6 because he -- he sent me pictures through Facebook as well.

7 So, it was either Facebook or WhatsApp.

8 Q. Did your brother ever use an app called Surespot?

9 A. He -- no, he never used it.

10 Q. Did your brother ever express an intention to use Surespot
11 with you?

12 A. He did, yeah. He wanted to use it to communicate with me
13 but we never did use it.

14 Q. What is Surespot?

15 A. It's another encryption application.

16 Q. And when you say you never did use it, describe what you
17 mean by that.

18 A. We planned to use it and I made -- I set up the account and
19 everything that was required and then he told me that we
20 would -- he would not be able to use it because he was not
21 allowed to.

22 Q. This -- back to this photograph. Approximately when did
23 you receive it?

24 A. I can't recall the exact date. Late spring early summer --
25 early summer 2015 -- early to mid-summer 2015.

H1H5gam2

T. El-Goarany - direct

1 Q. Who is Abu Murad?

2 A. That's a name that was given to Samy.

3 Q. By whom?

4 A. By I don't know who specifically but whoever was in charge
5 of him.

6 Q. What does it mean?

7 A. It means the Father of Murad. It doesn't really have a
8 meaning in terms of -- in terms of every fighter had that kind
9 of -- at least the ones that Samy told me about were, had a
10 similar name. It would be prefaced with Abu and then some
11 other name that wasn't their name.

12 Q. You said every fighter; describe what you mean by that?

13 A. Yeah. Sorry.

14 People that Samy interacted with on a regular basis,
15 he would talk to me about but he would only mention their name
16 given to them or these fighters by ISIS, by their ISIS-given
17 name.

18 Q. Turning back to 112-B, if you could look at page 16?

19 Thank you, Ms. Quinones.

20 The message that begins on July 19th, 2015 at 17:48;
21 can you please read the two sentences beginning at: "Things
22 are about...?"

23 A. Which?

24 Q. Sure. Beginning three lines into that message, the
25 sentence that begins with: "Things are about..."

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T. El-Goarany - direct

1 A. Right.

2 Things are about to get busier on my end again so I
3 don't know if I'll have time to talk today or over next week
4 for that matter. But inshAllah, I'll get in touch with you
5 when I have free time, as I always do.

6 Q. And what did you understand it to mean when he wrote
7 "things are about to get busier on my end?"

8 A. I just understood it to mean that he would have more duties
9 to perform. I didn't know what he meant by that.

10 Q. Earlier you testified about his military training prior to
11 deployment. Describe what you meant by deployment.

12 A. What I meant is that he was eventually -- Samy was
13 eventually deployed, and what I mean by deployed is that he was
14 sent to fight, to combat other groups in the region that he was
15 in.

16 Q. Approximately when was this deployment?

17 A. Late July, early August or -- yeah.

18 Q. Describe what he told you about what he did when he was
19 deployed with ISIS.

20 A. He didn't explain too much, but what he did tell me was
21 that he was being deployed to fight a group called the al-Nusra
22 front and they were combating them in a region that he didn't
23 disclose to me in Syria and that he would be there for a while,
24 and eventually he got injured and pulled out of combat.

25 Q. Describe what he said about his injury.

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T. El-Goarany - direct

1 A. He told me that he got injured in both legs in the back --
2 on the back of the knee from shrapnel in both legs.

3 Q. Describe what he said about what he was doing when he got
4 injured.

5 A. He was with someone -- someone else that he didn't tell me,
6 another fighter but he didn't mention specifically, and he told
7 me that they were on top of a building, they were on the roof
8 of a building shooting down at who he was shooting at -- he
9 didn't tell me who, specifically, I just assumed it to be
10 al-Nusra front fighters. And then when they returned -- when
11 the people he was fighting returned fire, some of the bullets
12 or the bullet ricocheted and kind of split and then it somehow
13 got -- because he was returning the fire, he somehow got it in
14 the back of his legs and that he was taken to the hospital.

15 Q. Showing you what's in evidence as Government Exhibit 903.

16 Your Honor, may we publish that to the jury?

17 THE COURT: All right.

18 MS. TEKEEI: Thank you.

19 Q. Who is that?

20 A. That's my brother Samy.

21 Q. Have you seen this photograph before?

22 A. Yes.

23 Q. When did you first see it?

24 A. Summer, late summer 2015.

25 Q. Describe what your brother told you about the building

H1H5gam2

T. El-Goarany - direct

1 that's depicted behind him.

2 A. He told me -- so, during the phone conversation that we
3 had, I overheard what sounded like an airplane flying over and
4 then a loud, like, rumbling noise, and he told me that it
5 was -- that was an air strike that I just heard and that after
6 the conversation ended he sent me this photo and that was a
7 remnant of that air strike and it was part of, like, I don't
8 know, a building that got hit or, like, maybe some kind of
9 portion got hit.

10 Q. Thank you, Ms. Quinones.

11 Mr. El- Goarany, did there come a time when you
12 learned about an arrest in this case?

13 A. Yes.

14 Q. Did your brother Samy discuss that arrest with you?

15 MS. SHROFF: Objection.

16 THE COURT: Overruled.

17 A. Yes, he did.

18 Q. Had you heard the name Ahmed El Gammal before?

19 MS. SHROFF: Objection, your Honor.

20 May we approach?

21 THE COURT: Sure.

H1H5gam2

T. El-Goarany - direct

1 (At side bar)

2 MR. HABIB: So, your Honor, the government is going to
3 elicit statements from Samy to the effect that our client
4 assisted him on traveling to Turkey and Syria. We're objecting
5 to those statements, they would not qualify as statements in
6 his interest under the Supreme Court's decision on *Williamson*
7 *v. United States* because they're collateral, they don't
8 inculcate Samy, they inculcate someone else.

9 We would also object pursuant to the confrontation
10 clause for the same reason.

11 MS. TEKEEI: Your Honor, to the extent that the
12 witness makes those types of statements, they are
13 non-testimonial because they were not made to law
14 enforcement --

15 THE COURT: I'm sorry.

16 MS. TEKEEI: They were not made to law enforcement
17 and; second, they are statements against people of interest
18 because they describe him receiving help from someone going to
19 do what he is doing which is fighting for ISIS.

20 MR. HABIB: On the testimonial point, they're
21 statements made to a person who at this point is cooperating
22 with the government and so should be deemed agent of law
23 enforcement because he is acting at the instructions of law
24 enforcement in continuing the conversation with his brother.
25 That was his testimony.

H1H5gam2

T. El-Goarany - direct

1 MS. SHROFF: In fact, Ms. Tekeei elicited that
2 testimony from this witness. She specifically asked him, Did
3 the FBI tell you what to say and did you follow the FBI's
4 direction? and he said, Yes.

5 MR. HABIB: So when -- I think the case law is clear
6 that for confrontation clause purposes, when a private citizen
7 is acting at the direction of law enforcement, he should be
8 deemed an agent of law enforcement for purposes of classifying
9 statement and testimony. In addition, under Williamson, again,
10 the statement has to be inculpatory of Samy in particular. To
11 the extent that he is now inculcating another individual or
12 blaming another individual, the statement is no longer against
13 his interest, it is against our client's interest which is not
14 within the scope of the rule.

15 THE COURT: Stop.
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H1H5gam2

T. El-Goarany - direct

1 (In open court)

2 THE COURT: Ladies and gentlemen, this is going to go
3 on for a little bit so we are going to break for lunch now.
4 Take an hour and five minutes. Please, be back in the jury
5 room no later than 1:30, okay, so we can get started at 1:30.
6 Don't discuss the case.

7 (Continued on next page)

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H1H5gam2

T. El-Goarany - direct

1 (Jury not present)

2 THE COURT: Mr. El- Goarany, you may step down.

3 (Witness steps down)

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H1H5gam2

T. El-Goarany - direct

1 (At side bar)

2 MR. HABIB: In addition, your Honor, Ms. Mirón reminds
3 me that around this time, Samy in fact confirms his awareness
4 that law enforcement is, at a minimum, involved in monitoring
5 his communications with his brother because he tells his
6 brother the FBI is probably reading this.

7 MS. SHROFF: In fact, he calls them -- what does he
8 call them exactly? Some derogatory word.

9 MS. MIRÓN: Derogatory term for gay.

10 MS. SHROFF: He called them the faggots at the FBI are
11 probably monitoring all of this and tells his brother to be
12 careful because -- he even tells his brother that because of
13 this, the FBI will be on him. If anybody contacts him, he
14 should be careful because he could get entrapped. There was a
15 whole colloquy.

16 THE COURT: He being Tarek?

17 MS. SHROFF: Right, Tarek. He warns his brother, then
18 he tells his brother that he is worried about FBI arresting the
19 entire family and he himself is worried so he's going to go
20 underground and disappear for a while.

21 THE COURT: He being?

22 MS. SHROFF: Samy.

23 THE COURT: Samy.

24 MS. SHROFF: Right.

25 MS. TEKEEI: Your Honor, a few things.

H1H5gam2

T. El-Goarany - direct

1 At the time the statement was made there is no
2 evidence that Samy El- Goarany knew that his brother Tarek was
3 cooperating with law enforcement. The messages that Ms. Shroff
4 is referring to right now about the FBI monitoring them were
5 over Facebook and I believe, although I can't predict exactly
6 that the witness would testify that he had phone conversations
7 or one with his brother at that, around that same time period
8 during which his brother described, in a very limited fashion,
9 Mr. El-Gammal's role in his travel to Syria to join ISIS.

10 THE COURT: What did he say about Mr. El-Gammal's
11 role?

12 MS. TEKEEI: I think he will say that his brother said
13 that Mr. El-Gammal helped him but did not recruit or influence
14 him into going.

15 THE COURT: The media wants this to be in open court.
16 Any reason why this shouldn't be?

17 MS. SHROFF: Go ahead.
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T. El-Goarany - direct

1 (In open court)

2 THE COURT: Objection sustained.

3 MS. SHROFF: Your Honor, we didn't hear what you said.

4 THE COURT: I'm sorry. I was referring to the note.

5 MS. SHROFF: Okay.

6 MS. TEKEEI: One moment, your Honor? I do have a
7 couple of things to add.

8 (Counsel conferring)

9 MS. TEKEEI: Your Honor, I would just add to what I
10 said earlier that this is a conspiracy, one of the charges is
11 conspiracy -- two of the charges are conspiracy, and to the
12 extent that one of the speakers is discussing the other
13 individual's role in that conspiracy, it is against the
14 speaker's penal interest.

15 THE COURT: Is it the government's proffer that
16 Mr. Samy El- Goarany will be providing or provided his brother
17 Tarek with instructions during the course of that conversation?

18 MS. TEKEEI: No, your Honor, but it's still -- we
19 believe it is still a declaration against interest for the
20 reasons that I stated earlier because he was describing his own
21 travel and where he himself was at that time, that being to
22 ISIS and with ISIS.

23 THE COURT: Now, with respect to the issue raised by
24 the defense concerning Mr. Tarek El Goarany's status at the
25 time, you elicited testimony that he was instructed by FBI

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T. El-Goarany - direct

1 agents to, in essence, continue the conversation or to act
2 normally and to engage in whatever conversation he could with
3 his brother. To their argument, does that make him an agent of
4 the government for purposes of this examination?

5 MS. TEKEEI: First, the primary purpose of that
6 statement made by Samy El- Goarany was not to provide
7 information to be discussed in Court or to be conveyed or
8 relayed in Court, and by the defense's reasoning, any statement
9 made to a source, a confidential source or any type of source
10 would then, by an individual, would then be testimonial and
11 that's just not the case. We have testimony from sources about
12 what targets of investigations say all the time.

13 MR. HABIB: Two brief points, your Honor.

14 With respect to testimonial, it's not merely Samy was
15 speaking with a law enforcement source. It's that law
16 enforcement provided the source with specific instructions
17 about how to communicate with his brother, what kind of
18 information they wanted Tarek to elicit from his brother, how
19 to maintain an open line of communication to acquire
20 information for the government's purposes. The government
21 advised Tarek as to the status of the investigation even
22 alerting him that an arrest was going to take place. And so,
23 just as if an FBI agent directly asked Samy for incriminating
24 evidence about our client, the FBI cannot do, through an agent,
25 what it could not do itself. That's certainly the case with

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T. El-Goarany - direct

1 respect to the right to counsel line of cases and, in
2 particular, *Messiah*.

3 THE COURT: Doesn't the government do that every day?

4 I mean, whenever there is an undercover meet the
5 government meets with the cooperator, they give him specific
6 instructions, they give him instructions about what to say,
7 they tell him how to make the conversation go forward, how to
8 keep the conversation going, how to keep lines of communication
9 open. And that's the kind of stuff that gets admitted in
10 criminal cases every day of the week.

11 MR. HABIB: So, let me turn to reliability which is of
12 course a central concern of the confrontation clause as well as
13 statement against interest.

14 The reliability of this statement is suspect for the
15 simple reason that Samy has a powerful incentive to shield the
16 identities of those who truly assisted him in traveling to
17 Turkey and then to Syria, in particular, where those people are
18 his close friends to the extent that those people are his close
19 friends and family members.

20 And so, when the government says that the statement
21 was against interest, to a point that's right; had Samy said
22 I'm in Syria, I'm with ISIS, that is against his interest and
23 the Court has just admitted a number of statements along those
24 lines. But, when Samy now moves from I'm in ISIS to I'm in
25 ISIS and Mr. El-Gammal helped me, he is no longer inculcating

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T. El-Goarany - direct

1 himself with the second part of that statement, he is now
2 inculcating someone else and there are very real reliability
3 concerns about that testimony.

4 We know for a fact that his brother, Tarek El Goarany,
5 assisted him in traveling. We know that his cousin Ahmed was
6 aware of his plans. We know that at the time of this
7 communication his father Mohammed was also aware of where he
8 was and what he was doing. And so, Samy has a very real reason
9 to lie about who got him there to protect those close to him.

10 And so, for those independent reasons -- confrontation
11 and statement against interest under the Williamson decision --
12 the testimony is inadmissible.

13 MS. TEKEEI: Your Honor, it is not even a close case
14 on the confrontation clause so we don't get to reliability. I
15 will say that the instructions, as testified by the witness
16 that were provided by the agents, were to talk to Samy normally
17 and that was it. The statement about Mr. El-Gammal helping
18 him -- him being Samy -- get over there -- there being Syria --
19 there is evidence of the conspiracy and speaks to the
20 conspiracy. So, it is against his own penal interest.

21 THE COURT: The objection is overruled.

22 Unless there is anything else, 1:30.

23 (Luncheon recess)

24 (Continued on next page)

25

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T. El-Goarany - direct

AFTERNOON SESSION

1:30 p.m.

THE COURT: Please be seated. We will now continue with the direct examination of Mr. El-Goarany. Ms. Tekeei?

MS. TEKEEI: Thank you, your Honor.

BY MS. TEKEEI:

Q. Mr. El-Goarany, before we took a break, I asked you, was asking about the fall of 2015. Prior to then, had you heard the name Ahmed El Gammal before?

A. Yes, but not in a context of this, you know, case.

Q. In what context?

MS. MIRON: Objection.

THE COURT: Overruled.

A. My brother talked about a friend of his named, he would usually say his name is Ahmed or Gammal, but never the full name.

MS. MIRON: Your Honor, I can't hear the witness.

A. I'm sorry. I said my brother would never say the full name but when he did talk about Ahmed El Gammal, it would either be with the first name Ahmed or just Gammal, not the full name.

Q. And in what context did he discuss his friend Ahmed or last name Gammal?

A. He would discuss it in the context of political conversations that he would have with Gammal.

Q. And approximately how far back did that go?

H1HFSAM3

T. El-Goarany - direct

1 A. To my recollection, it went back a while. I would say, I
2 would say it was 17, 18, maybe.

3 Q. Going back to the fall of 2015, describe what if anything
4 Samy told you about the role his friend Ahmed played in Samy's
5 plan to join ISIS?

6 A. All he told me was that Ahmed helped in the vaguest and
7 most general of those terms. When I confronted him about it,
8 he did not tell me. He just said he helped him.

9 Q. Did you continue to communicate with your brother Samy
10 through the fall of 2015?

11 A. Yes.

12 Q. Describe what he told you about his activities with ISIS?

13 A. In the fall of 2015, he was recovering from his injury that
14 I told you about earlier, and then eventually when he healed
15 up, he would be, he told me he'd be deployed again.

16 Q. What if anything did he say about his deployment?

17 A. He didn't tell me specifics. He just told me that he would
18 be deployed again for a while. He didn't tell me where or even
19 who he was fighting this time. He just said he was going to be
20 sent to combat.

21 Q. Approximately when was the last time you received a
22 communication from him?

23 A. Late September, early October, 2015.

24 Q. Describe what he said.

25 A. Just that he would be deployed and that, again, I won't be

H1HFSAM3

T. El-Goarany - direct

1 in contact with him for a while, and that this time if anything
2 were to happen to him, he gave me a contact or told me that a
3 contact would reach out to me through Facebook to tell me if he
4 passed.

5 Q. Showing you what's been marked as Government Exhibit 1011,
6 should be in front of you. Could you take a look at that,
7 please? Do you recognize that?

8 A. Yes, I do.

9 Q. What is that?

10 A. It's a message that was sent to me through the application
11 called Viber which is another application that allows free
12 international call and text and it was sent to me by someone I
13 don't know on November 23rd. It's a letter that Samy wrote to
14 me in the event of him passing or in the event of his death.

15 Q. Looking at Government Exhibit 1000, which is right next to
16 it. Generally speaking, what is that?

17 A. It's a picture of the letter that Samy wrote to me.

18 Q. Do you recognize the handwriting on the letter?

19 A. Yes, I do.

20 Q. Whose is it?

21 A. That's Samy's handwriting.

22 MS. TEKEEI: Your Honor, the government offers
23 Government Exhibit 1000 and 1011.

24 MS. SHROFF: Your Honor, may we have a sidebar?

25 (Continued on next page)

H1HFSAM3

T. El-Goarany - direct

1 (At the side bar)

2 MS. TEKEEI: This is the letter.

3 MR. HABIB: Your Honor, we're renewing our objection
4 made via motion in limine and objecting for purposes of
5 relevance and prejudice.

6 THE COURT: Very well. It will be overruled.

7 (Continued on next page)

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T. El-Goarany - direct

1 (In open court; jury present)

2 MS. TEKEEI: Thank you. Your Honor, the government
3 offers Government Exhibits 1000 and 1011.

4 THE COURT: Those exhibits will be received.

5 (Government's Exhibits 1000 and 1011 received in
6 evidence)

7 MS. TEKEEI: May we publish them to the jury?

8 THE COURT: You may.

9 MS. TEKEEI: Beginning with Government Exhibit 1011.

10 Q. Looking at the top of this, Mr. El-Goarany, is this the
11 Viber transmission that you described earlier?

12 A. Yes.

13 Q. What does it say at the top?

14 A. "This is a message entrusted to me by Abu Murad to you with
15 regards."

16 Q. Who is that? Who is Abu Murad?

17 A. Samy.

18 Q. Turning to Government Exhibit 1000. Is this the letter
19 that you described earlier?

20 A. Yes, it is.

21 Q. Please read it.

22 A. "Message to my brother Tarek. This is to be delivered by
23 Abu Dharr Amroki or Abu Adam Bengali. My brother's WhatsApp
24 number is (845)667-2217."

25 Do you want me to continue?

H1HFSAM3

T. El-Goarany - cross

1 Q. Yes, please.

2 A. "Tarek, if you're reading this, then know that I've been
3 killed in battle and I'm now with our Lord insallah. Remember
4 what I told you that day at the train station the last time I
5 saw you. We will win this war one day, this war between iman,
6 belief, and kufir, disbelief, between good and evil. This is
7 Allah's promise to the martyrs and know that if I'm accepted as
8 a martyr that Allah does not fail in his promise."

9 Q. Since receiving this letter, have you heard from your
10 brother Samy?

11 A. No.

12 MS. TEKEEI: No further questions at this time.

13 THE COURT: Cross-examination. You may proceed.

14 CROSS-EXAMINATION

15 BY MS. SHROFF:

16 Q. Good afternoon, Mr. El-Goarany.

17 A. Good afternoon.

18 Q. Mr. El-Goarany, do you recall when the FBI came to your
19 house the first day?

20 A. The first meeting?

21 Q. Yes, sir.

22 A. Yes.

23 Q. And that was in your house in Goshen?

24 A. No. The first time I met the FBI was in my apartment in
25 Rego Park.

H1HFSAM3

T. El-Goarany - cross

1 Q. And when they came to you, you realized that you were in a
2 real bind, correct?

3 A. What do you mean by that? I'm sorry.

4 Q. Was the FBI at your door, correct?

5 A. We let them come inside, yeah.

6 Q. But you've testified on direct that you were scared about
7 the FBI being there, correct?

8 A. I was scared to tell them exactly what I knew because I
9 didn't know what would happen after, afterwards, when I told.

10 Q. That's what I mean by you were in a bind.

11 A. Okay.

12 Q. And that's because of what had happened vis-a-vis your
13 older brother, Samy, who you loved, correct?

14 A. Yes.

15 Q. And Samy was older than you by about two years, correct?

16 A. No, he was older than me by fifteen months.

17 Q. It's fair to say you guys grew up almost like twins, you
18 said once?

19 A. We were very, very close, yes.

20 Q. And as close as you were, you and Samy were very different
21 people, correct?

22 A. Different how?

23 Q. Well, Samy liked to argue a lot, is that fair?

24 A. He liked to debate a lot, yeah.

25 Q. And he liked to debate with people on line, correct?

H1HFSAM3

T. El-Goarany - cross

1 A. That is correct.

2 Q. And he liked to debate on Skype, correct?

3 A. I never witnessed a debate on Skype, but he did talk to his
4 friends and discussed political opinions, yeah, definitely.

5 Q. He liked to take a position and argue about it, correct?

6 A. Yeah. I mean, he enjoyed healthy debate.

7 THE COURT: I'm sorry, Ms. Shroff, could you move the
8 microphone closer to you?

9 MS. SHROFF: To me?

10 THE COURT: Yes, your microphone.

11 Q. And you two attended the same school, you overlapped in
12 school, correct?

13 A. That's correct. The same high school.

14 Q. And that was the Goshen High School, is that correct?

15 A. That's correct.

16 Q. And when he went off to college, you said you saw him over
17 the weekends, right?

18 A. Yeah.

19 Q. And once you graduated high school, you went to live with
20 him in the same apartment that he was living in, correct, is
21 that right?

22 A. Right.

23 Q. And is it fair to say that you are more moderate than Samy
24 was?

25 A. Can you please clarify? Like what terms?

H1HFSAM3

T. El-Goarany - cross

1 Q. Sure. Samy always wanted to do things, as you put it, the
2 Islamic way, is that right?

3 A. Yeah.

4 Q. And you, you were more moderate, you were okay with secular
5 positions, correct?

6 A. Yeah. I'm okay with secular positions, yeah.

7 Q. The same thing for Khaled, right? Khaled was more -- and
8 Khaled is your older brother, half older brother, but he's your
9 older brother, correct?

10 A. I would say so, sure.

11 Q. And from the time he was in high school, Samy was always
12 interested in certain topics, right? You testified on direct
13 he was interested in Palestine, correct?

14 A. That's correct.

15 Q. And he was interested in politics, correct?

16 A. Yes, he was.

17 Q. And of course politics and Palestine was a topic that
18 interested him, correct?

19 A. Among many others, but those were some of them, yeah.

20 Q. And you testified on direct, did you not, that Samy always
21 had this concept of unity, a Muslim land, correct, where all
22 Muslims could live, correct?

23 A. Yes.

24 Q. The Ummah, so to speak?

25 A. He was interested in the idea of Muslims coming together,

H1HFSAM3

T. El-Goarany - cross

1 yes.

2 Q. And you recall when Samy would talk about the Ummah and say
3 that the best way was for the Muslim world to unify but not
4 through violence, correct?

5 A. I'm sorry, could you repeat that?

6 Q. In high school, and in his early years in college he would
7 talk to you about the Ummah, correct, that he wanted to reach
8 the Ummah without violence?

9 A. Without --

10 Q. Without.

11 A. Yes.

12 Q. And it's fair to say, is it not, that the other person that
13 was close to Samy was his cousin in Egypt, right?

14 A. Yeah. Yeah, we were all close.

15 Q. The three of you were close, you, Ahmed and Samy, correct?

16 A. Yes.

17 Q. And at that time, I don't know where he lives now, but at
18 that time did Ahmed live in Egypt?

19 A. At the time when Samy left?

20 Q. No, I'm sorry. I apologize. In the time frame when you
21 guys were in college right after high school all throughout
22 those years, Ahmed lived in Egypt, correct?

23 A. That's correct, yeah.

24 Q. And Ahmed was one person that Samy talked to a lot,
25 correct?

H1HFSAM3

T. El-Goarany - cross

1 A. Yeah.

2 Q. They were close?

3 A. They were close, yeah.

4 Q. And unlike you or unlike Samy, Ahmed spoke Arabic, correct?

5 A. That's correct.

6 Q. He was fluent in Arabic?

7 A. He was born in Egypt so he was fluent in Arabic.

8 Q. And the same for Khaled?

9 A. Yeah.

10 Q. And Samy talked with Ahmed, did he not, on social media, is
11 that right?

12 A. Yeah. When Ahmed wasn't visiting, because he typically
13 visited over the summer, Samy would talk to him on Facebook
14 frequently.

15 Q. This is your cousin Ahmed, right?

16 A. Yeah, sorry.

17 Q. And one of the topics that Ahmed and Samy would discuss,
18 your cousin Ahmed, was politics, correct?

19 A. Yes.

20 Q. And Samy talked a lot about politics with Ahmed, is that
21 right?

22 A. Yeah, they would talk about Egyptian politics
23 predominantly.

24 Q. And do you recall a point where Samy wrote a story about
25 driving Ahmed so crazy with his conversation about politics

H1HFSAM3

T. El-Goarany - cross

1 that Samy actually wrote about that, do you recall that?

2 A. I don't recall that.

3 MS. SHROFF: Your Honor, may I approach?

4 THE COURT: Yes, you may.

5 Q. Let me show what's been marked as Defense Exhibit 110FF.

6 If you could just take a look at that and see if it refreshes
7 your recollection. If you could just take a look at the first
8 three lines. Does that refresh your recollection?

9 A. Yeah, a little. Yeah.

10 Q. It was common, right? Samy would talk a lot about politics
11 and Ahmed would say enough, please stop, correct?

12 A. I mean this is, in the story kind of written like a joke.
13 I mean, he would complain, but he wouldn't be so upset that he
14 didn't want to talk about it. It was just kind of like
15 something Samy talked about a lot and not something that Ahmed
16 wanted to talk about all the time because he lived in Egypt and
17 he saw how terrible the government is over there. So he didn't
18 want to discuss that all the time.

19 Q. Right. And he said, "You really need to stop," all caps
20 "really," right?

21 A. That's what it says there, yeah.

22 Q. And as time went on, Samy's use of social media only
23 increased, is that correct?

24 A. Yeah. He used it pretty frequently, definitely.

25 Q. And he was on Twitter a lot, correct?

H1HFSAM3

T. El-Goarany - cross

1 A. That's correct.

2 Q. And in fact, 90 percent of his time was spent on Twitter,
3 correct?

4 A. How much percentage?

5 Q. 90 percent of his time was on Twitter.

6 A. I can't say that for sure. It was a lot of time, but I
7 can't say like percentages.

8 Q. No problem. How about on Facebook? He was on Facebook a
9 lot?

10 A. For sure.

11 Q. And he was on Tumbler a lot?

12 A. I didn't observe his Tumbler account too much, but, yeah,
13 he definitely used it.

14 Q. And he was certainly on Google Hangouts, correct?

15 A. Yes.

16 Q. He and Nico and Khalafalla Osman were on Hangouts all the
17 time?

18 A. Yes, I witnessed several conversations between the three of
19 them on Google Hangouts, yes.

20 Q. Obviously he was on Facebook, correct?

21 A. Yeah, he was.

22 Q. And going back to his Twitter account, were you aware that
23 he had up to 300 followers on Twitter?

24 A. I was not aware of that.

25 Q. And were you aware that he had lots of opinions to express,

H1HFSAM3

T. El-Goarany - cross

1 both on Facebook and Twitter, about conflicts in the Middle
2 East; you're aware of that, right?

3 A. Yes. He would talk about different opinions on Facebook
4 and Twitter. That's correct.

5 Q. He talked about the conflict between Israel and Palestine,
6 is that right?

7 A. Yeah. He did.

8 Q. He talked about the oppression in Syria, correct?

9 A. Yes, he did.

10 Q. He would talk about the horrific acts of Abdel Fattah
11 el-Sisi, correct?

12 A. That's correct.

13 Q. And you agreed with him that Sisi was a dictator?

14 A. He is a dictator.

15 Q. And of course you did not agree with the atrocities of
16 Sisi, correct, against the Egyptian people?

17 A. Of course not.

18 Q. And Samy also talked about Bashar al-Assad, correct?

19 A. Yes, he did.

20 Q. And he's the dictator in Iraq, correct?

21 A. No, Bashar al-Assad is in Syria.

22 Q. I'm sorry. And Samy talked about him, correct?

23 A. Yes, he did.

24 Q. And he posted and reposted articles that he had read,
25 correct?

H1HFSAM3

T. El-Goarany - cross

1 A. On Facebook and, yeah, mainly Facebook he would repost,
2 yeah.

3 Q. Let me show you what's in front of you as DX 113NN and DX
4 113II. Do you see those?

5 A. I think I only have 110.

6 Q. And do you recognize these as Samy's postings on his
7 Facebook?

8 A. I don't specifically recall these articles, but, yeah, he
9 would post stuff like that.

10 Q. Okay. And if you take a look at what's 113NN, do you see
11 where it says the link, what is Sbey1453? Is that Samy Bey?

12 A. Yeah.

13 Q. And was that Samy's account?

14 A. I believe so, yeah.

15 Q. And the same thing for 1113, do you see the second part of
16 that that you have, dash 2, it says Sbey?

17 A. Yeah.

18 Q. And these are postings from your brother in 2011, correct?

19 A. Yeah.

20 Q. And the postings are about people in Syria being tortured,
21 is that correct?

22 A. Yes. Correct, crackdown on protests.

23 Q. And Assad, correct, the atrocities of Assad is the second
24 document, correct?

25 A. Yes.

H1HFSAM3

T. El-Goarany - cross

1 MS. SHROFF: Your Honor, the defense offers 113NN and
2 113LL into evidence.

3 MS. TEKEEI: We have no objection.

4 THE COURT: I'm sorry, was that II or LL?

5 MS. SHROFF: I think it's II.

6 THE COURT: Those two exhibits will be received.

7 MS. SHROFF: Your Honor, could we just publish them
8 very briefly?

9 THE COURT: Sure.

10 (Defendant's Exhibits 113NN and 113II received in
11 evidence)

12 Q. And these topics, Mr. El-Goarany, were normal topics of
13 conversation, correct?

14 A. Yeah, we would discuss it.

15 Q. They were topics of conversations amongst those of you that
16 were friends, correct?

17 A. Yeah, mm-hmm.

18 Q. Samy would talk about this with Khalafalla Osman with whom
19 he was close, correct?

20 A. He would, yeah.

21 Q. He talked about other things with Khalafalla Osman as well,
22 right; they rapped together, correct?

23 MS. TEKEEI: Objection.

24 THE COURT: Overruled.

25 Q. They wrote music together?

H1HFSAM3

T. El-Goarany - cross

1 A. I don't know if they wrote a song together. They were both
2 interested in rap, but I don't think they ever collaborated, to
3 my recollection.

4 Q. But they were both interested in rap, correct?

5 A. Yeah.

6 Q. And same for Nico, correct, Nico was also interested in
7 music, correct?

8 A. Yeah, that was his career.

9 Q. And that's the friend called Nico Marchese, is that right?
10 Do I have the name right?

11 A. That's right.

12 Q. That was your neighbor, right?

13 A. Yeah, he is my neighbor, yeah.

14 Q. And you guys knew each other since you were four?

15 A. No. We met when I moved to Goshen, which was when I was
16 nine or ten and I met Nico a little bit later, like when I was
17 eleven.

18 Q. And it's fair to say, right, that this was a close-knit
19 group, you called yourself the Brown Squad?

20 A. Khalafalla Osman is not part of the Brown Squad. It's
21 people, that group of friends comprises of people in my, in the
22 Middletown Islamic center, so it would be pretty much Nico and
23 a couple of other people who attended the mosque.

24 Q. Samir one of them?

25 A. Samir al-Tarek.

H1HFSAM3

T. El-Goarany - cross

1 Q. Was one of them?

2 A. He was, yes.

3 Q. How about Rameez Farooqi?

4 A. No.

5 Q. Who else was in that group?

6 A. Nico, Samir, al-Tarik, Ali Marek and his two younger
7 brothers. Those were pretty much the people we saw on a
8 regular basis.

9 Q. And Khalafalla Osman was more Samy's friend, correct?

10 A. Yeah, I knew him through Samy.

11 Q. Right, but he and Samy were closer than you were with
12 Khalafalla Osman, correct?

13 A. Definitely.

14 Q. They're the same age group. You're younger, correct?

15 A. Actually, no. Khalafalla is younger than me, a couple of
16 years, I think one or two and Samy is older.

17 Q. So Khalafalla Osman and Samy were friends and you were
18 friends with Mr. Osman through Samy, so to speak?

19 A. Yes.

20 Q. Now, when Samy was in high school and in college, a running
21 theme for him was getting married or dating, is that fair to
22 say?

23 A. Not more than --

24 Q. Sorry?

25 A. Not more than any other person his age. It wasn't

H1HFSAM3

T. El-Goarany - cross

1 abnormal, like, he was 18 to 24, so --

2 Q. It was normal for him to want to date, right?

3 A. Exactly.

4 Q. And he talked about dating with other people, right, which
5 is also normal, correct?

6 A. Of course.

7 Q. And he talked about dating with you and he talked about it
8 with your older brother Khaled, correct?

9 A. Amongst others, but yeah, we would discuss it for sure.

10 Q. And as time went by, as he got older, he got more and more
11 interested in trying to get married, correct, is that fair to
12 say?

13 A. He, we discussed it and, yeah, he definitely had an
14 interest.

15 Q. And he kind of liked a particular Palestinian girl, her
16 name was Surose, right?

17 MS. TEKEEI: Objection.

18 THE COURT: Overruled.

19 A. I don't recall that.

20 Q. Do you recall that he wasn't very particularly successful
21 in dating and would often ask your older brother for advice on
22 that topic?

23 A. Just like --

24 Q. It's fair to say, right?

25 A. Just like anybody else who has failures and successes, you

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T. El-Goarany - cross

1 would talk to your older brother about it, yeah.

2 Q. You were a little bit more popular with the girls than he
3 was, correct?

4 MS. TEKEEI: Objection. Relevance.

5 THE COURT: Sustained.

6 Q. Samy talked to you about wanting to get married in the
7 Islamic way, did he not?

8 A. He never told me explicitly to --

9 Q. It was clear to you, right, that that's what Samy wanted?

10 A. No. He never told me a hundred percent like you need to
11 marry in the Islamic way.

12 Q. Not you. I'm saying Samy told you he wanted to marry in
13 the Islamic way.

14 A. Yes. He wanted to follow more traditional guidelines,
15 sure.

16 Q. And the traditional guidelines would be that he would be
17 introduced to a Muslim girl who was virginal and he would
18 marry, correct, those would be the traditional guidelines?

19 A. Well, also there would have to be witnesses on both sides
20 and yeah, he thought that that wasn't a bad thing and, you
21 know, he didn't necessarily say that this is the definitive way
22 of how I want to marry, but he didn't rule it out as a way to
23 be married.

24 Q. And Samy also discussed with you, did he not, other things
25 that interested him, including writing music, right?

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T. El-Goarany - cross

1 A. That is correct.

2 Q. And you and Samy were so close that Samy confided in you
3 about almost everything, is that correct?

4 A. He told me a lot. I can't say that he told me everything,
5 but he told me a lot, yeah. We had a very close relationship.

6 Q. And you and he got on, right; when you went away to college
7 you moved into the apartment he was in, correct?

8 A. That's correct.

9 Q. And the apartment was an apartment that your parents paid
10 for, correct?

11 A. Yes.

12 Q. And you guys lived there for how long; four, five years?

13 A. Four years, yes.

14 Q. Did you follow him to the same college?

15 A. No, he attended St. John's and then Baruch and I attended
16 Queensborough Community College and then Queens College, so it
17 was the same university, but not the same college.

18 Q. But you actually literally fifteen minutes away from each
19 other, correct?

20 A. No, Baruch is --

21 Q. I don't mean exactly. I mean close.

22 A. It was about an hour between train rides, so not that
23 close. I was in Queens. He was in Manhattan.

24 Q. And did you live together? Did you describe it as a
25 studio, sir?

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T. El-Goarany - cross

1 A. Yes, that's correct.

2 Q. And when Samy asked you to do something for him, as his
3 younger brother you wanted to do it, correct?

4 A. I mean, I would help him if he asked for my help, but it
5 wasn't like he told me what to do all the time.

6 Q. No. I mean, he asked you to help him with what he wanted
7 to accomplish and you helped him, correct?

8 MS. TEKEEI: Objection.

9 THE COURT: Overruled.

10 Q. Yes?

11 A. Yes.

12 Q. And, for example, and Ms. Tekeei talked about all the ways
13 you helped him and I'll come back to those, but just to give
14 you a general overview, he asked you to keep his plan a secret
15 and you kept it a secret, correct?

16 A. That's correct.

17 Q. And he told you to cover for him so that he could get to
18 Syria without the FBI knowing and you covered for him, correct?

19 A. He told me to do what I thought was the best course of
20 action and he left it up to my judgment.

21 Q. Mr. El-Goarany asked you to cover for him and you covered
22 for him, right, it's fair to say?

23 A. I did cover up for him, yeah.

24 Q. And he asked to you help him destroy evidence and you
25 helped him, correct?

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T. El-Goarany - cross

1 A. I witnessed him destroy evidence, but I didn't --

2 Q. You did not help him? Is that your testimony?

3 A. Yes, I helped him.

4 Q. And you lied for him, right, Mr. El-Goarany, for Samy
5 El-Goarany?

6 A. I did.

7 Q. You lied to your family for him, correct?

8 A. That is correct.

9 Q. You lied to your friends, friends that you had known since
10 you were nine years old, right?

11 A. Yes.

12 Q. And you lied to the FBI, correct?

13 A. That is correct.

14 Q. And for all those lies, you were never arrested, correct?

15 A. No.

16 Q. And for lying to the FBI you were never charged by these
17 three prosecutors who are sitting here today, correct?

18 A. I was not charged, no.

19 Q. Now, let's go back to 2014, okay? 2014, summer and fall,
20 you are with your brother, Samy, correct?

21 A. Yeah.

22 Q. And although you share a studio in Rego Park, when you're
23 in your Goshen home you live in a large house, correct?

24 A. Yeah, we have separate rooms, yeah.

25 Q. And even though you were close to Samy, there were times

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T. El-Goarany - cross

1 that Samy did stuff on his own while you were in Goshen,
2 correct?

3 A. That's correct.

4 Q. And throughout the summer and the fall, into winter, you
5 knew that Samy was getting and reading a lot of material on the
6 Middle East, correct?

7 A. Like he always did, yeah.

8 Q. And in Samy's background he always had memberships in
9 different groups, correct? So he belonged to the Muslim
10 Student Association at his school or college, is that right?

11 A. Yeah, he did.

12 Q. And one of his friends, you testified about him now,
13 Khalafalla Osman was the leader of such a group in Albany,
14 correct?

15 A. In Albany.

16 Q. And what was that group called?

17 A. I know it to be the Muslim Student Association, the MSA,
18 yes.

19 Q. And Khalafalla Osman was the leader of that group, is that
20 correct?

21 A. For a year, yes.

22 Q. And when he was leader of that group Samy went up to visit
23 him?

24 A. They were friends, so he went up to visit him.

25 Q. You didn't go up?

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T. El-Goarany - cross

1 A. I did not.

2 Q. Samy also went, I think he went to other places to attend
3 the Islamic conference, was it in Canada? Do you remember
4 that?

5 A. When? What time period? Sorry.

6 Q. Late 2013 and into 2014 he attended Islamic conferences,
7 correct?

8 A. I don't recall specifically. He had attended conferences.
9 I don't know if it was in any time period and what specific
10 conferences.

11 Q. It was perfectly normal for him to go to these conferences,
12 right? It was just normal behavior, right?

13 A. Yeah, absolutely.

14 Q. And as part of that norm, Samy also was very charitable,
15 right? He gave money to many causes, correct?

16 A. Yeah, he did.

17 Q. He gave money to the Islamic Relief U.S.A., correct?

18 A. He did.

19 Q. He gave money to Care, correct, which is another charitable
20 organization, correct?

21 A. He did.

22 Q. He gave money to the Syrian Association of Ottawa Keep us
23 Warm campaign, correct?

24 A. I'm not familiar with that one. I don't remember.

25 Q. He gave money to the Young Turks, correct?

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T. El-Goarany - cross

1 A. Yeah, he did.

2 Q. He gave money to Real News at Independent World Television,
3 correct? He believed in it, that TV station?

4 A. I don't know. I didn't know he gave money to them, but he
5 knew about, yeah, he knew about them.

6 Q. And getting into late 2014, Samy started to talk to you and
7 Ahmed more and more about wanting to go and do something, did
8 he not?

9 A. I don't recall that.

10 Q. You don't recall Samy talking to you about Palestine after
11 you and he went to a demonstration about Palestine?

12 A. Yeah, we went to a protest in New York City, yeah.

13 Q. And after the protest he told you he felt very strongly
14 about the plight of the Palestinians, correct?

15 A. We all did, yeah.

16 Q. Absolutely. And he wanted to actually do something about
17 it, correct?

18 A. We all did.

19 Q. But Samy actually told you -- I don't know about "we all
20 did." "We" is a broad -- that's a broad brush, but let's just
21 talk about Samy. So Samy told you he didn't want to just talk
22 about this anymore, he actually wanted to go do something,
23 correct?

24 A. Not at that time.

25 Q. He told you that much later?

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T. El-Goarany - cross

1 A. Yeah.

2 Q. So it's almost December is when he started to tell you that
3 he wanted to go do something?

4 A. No, it was, it was fall, but it wasn't --

5 Q. Late fall?

6 A. But it wasn't during that protest.

7 Q. And he talked to you, did he not, about wanting to do
8 something about all of the dictators that he felt strongly
9 against; Mubarek, Assad, Sisi and sometimes even Netanyahu,
10 correct?

11 A. Yeah, he felt strongly about that.

12 Q. At times he talked to you, did he not, about the failure of
13 Obama's policies in the Middle East, correct?

14 A. Yeah, we discussed it.

15 Q. And he talked to you about how terrible he felt about the
16 Syrian refugees, correct?

17 A. Yes.

18 Q. And he talked to Ahmed about all of these topics as well,
19 correct?

20 A. I only remember what we talked together, about together. I
21 don't know, I can't say for sure that he talked to Ahmed at the
22 same length that he talked to me about these same issues.

23 Q. Around that same time he was also posting these things on
24 Facebook, correct?

25 A. He was posting, yeah, certain articles about various

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T. El-Goarany - cross

1 issues.

2 Q. And the various issues included, did they not, militant
3 groups as well, correct? He talked about militant groups?

4 A. Yeah, he did.

5 Q. He talked about Hamas, correct?

6 A. Mm-hmm.

7 Q. He talked about the Hezbollah?

8 A. He did.

9 Q. He talked about the Muslim Brotherhood, correct?

10 A. That's correct.

11 Q. He talked about ISIS, correct?

12 A. Yeah.

13 Q. And at that time he told you, did he not, that he did not
14 believe in the violence of ISIS, correct?

15 A. At this time he did, yeah. He said he didn't sympathize
16 with them.

17 Q. In fact, Samy was very clear to you around that time that
18 he believed in the Ummah but did not believe in attaining it
19 through violence, correct?

20 MS. TEKEEI: Objection. What time period are we
21 discussing now?

22 THE COURT: If you could place it in a time frame.

23 Q. Late 2014.

24 A. Can you repeat the question? I'm sorry.

25 Q. Sure. Samy said he believed in Ummah but not through

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T. El-Goarany - cross

1 violence, correct?

2 A. Yes.

3 Q. And Samy also mentioned to you -- by the way, Samy by this
4 time had not graduated college, correct?

5 A. That's correct.

6 Q. And he wasn't really working anyplace where he felt
7 fulfilled, correct?

8 A. I don't know how he felt about his work, to be honest. He
9 never told me that he, you know, hated it or something. It
10 wasn't his end goal, but I don't know, I can't say for sure if
11 he --

12 Q. It wasn't his goal at all, right? He was working at Sears
13 as a sales associate?

14 A. Yeah, but he never told me that he expressed -- he actually
15 told me sometimes that he enjoyed working.

16 Q. How long did he work at Sears, by the way?

17 A. A few months.

18 Q. How many months? Less than three?

19 A. I want to say three.

20 Q. Three, right. He quit after three months.

21 A. Yeah.

22 Q. And at this time he had not reenrolled in any college,
23 correct?

24 MS. TEKEEI: During what time period again?

25 Q. It's the same time period. He didn't enroll for college,

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T. El-Goarany - cross

1 right, he didn't reenroll for college, right?

2 A. He was not enrolled in college during this time period.

3 Q. He was not enrolled and he never took any steps to
4 reenroll; both are true, correct?

5 A. He did, but later on.

6 Q. And at this time he talked to various people about going to
7 do humanitarian work, is that right?

8 MS. TEKEEI: Objection. Foundation.

9 Q. Did he tell Khalafalla Osman that he was going to go to the
10 Ottoman Empire and do humanitarian work? He did, right?

11 A. I can't say for certain.

12 Q. You can't say for certain, but you know that he did have a
13 conversation with Khalafalla Osman about going to the Ottoman
14 Empire, correct?

15 MS. TEKEEI: Objection. Foundation.

16 THE COURT: If he knows.

17 A. He told me he spoke to Khalafalla -- sorry, he told me he
18 spoke to Khalafalla, but he told me -- that's all he told me,
19 that he spoke to him about it, but he never told me that he
20 told Khalafalla that he wanted to go to the -- I mean, he would
21 never phrase it that way.

22 Q. Let me show you what is marked --

23 MS. SHROFF: Can I have a second, your Honor?

24 THE COURT: Sure.

25 Q. Let me show you a document maybe that will refresh your

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T. El-Goarany - cross

1 recollection about Samy's use of the word --

2 MS. TEKEEI: Objection. I don't think he said his
3 recollection needed refreshing.

4 THE COURT: I don't recall as I sit here whether he
5 did or he didn't.

6 MS. SHROFF: It's okay, your Honor.

7 Q. Mr. El-Goarany, are you suggesting that Khalafalla Osman
8 and your brother did not talk about him going to do refugee
9 work in the, as your brother would call it, the Ottomanian or
10 Ottoma or Ottomani Empire? Is that your testimony?

11 MS. TEKEEI: Objection. Foundation.

12 THE COURT: Overruled.

13 A. Samy told me about a conversation he had with Khalafalla,
14 and that's all he told me.

15 Q. He just told you, "I had a conversation with Khalafalla
16 Osman"? That's it? That's all he said?

17 A. About discussing humanitarian work.

18 Q. Right.

19 A. But he never told me about telling him that he wanted to
20 return to the Ottoman Empire, which was abolished in 1923.

21 Q. But he did tell you that he told Khalafalla Osman that he
22 wanted to go do humanitarian work, correct? That's what you
23 just testified to.

24 MS. TEKEEI: Objection.

25 THE COURT: Overruled.

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T. El-Goarany - cross

1 A. That's correct.

2 Q. Okay. Now, Samy didn't speak Arabic, right?

3 A. He did not.

4 Q. And as his brother are you aware that he would ask other
5 people to translate Arabic articles or videos for him?

6 A. I was not aware.

7 Q. You were not aware that he would ask Ahmed or Khalafalla
8 Osman to translate for him?

9 A. No, I've seen him ask my cousin -- sorry, I've seen him ask
10 my cousin Ahmed to translate something that wasn't even related
11 to politics, but it wasn't on a regular basis, and if he did, I
12 don't know.

13 Q. Now, Mr. El-Goarany, Samy told other people, including your
14 mother, did he not, about his interest in leaving to go do
15 humanitarian/refugee work, correct?

16 MS. TEKEEI: Objection. Foundation.

17 THE COURT: Overruled.

18 A. He told my mother, because I witnessed that conversation.

19 Q. And -- I'm sorry. I can't hear you.

20 A. Sorry. I just said that about, I witnessed him talk to my
21 mother about it, but --

22 Q. And your mother and he were close, correct?

23 A. Yes.

24 Q. And your mother and he were closer than he and your father
25 was, correct?

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T. El-Goarany - cross

1 A. I'm not -- I don't--

2 Q. We'll get to that in a minute. But when Samy told your
3 mother he wanted to go do humanitarian work, she wasn't
4 thrilled about the idea, correct?

5 A. No, she wasn't.

6 Q. Part of the conversation was her understanding that this
7 was in keeping with Samy's personality, correct?

8 MS. TEKEEI: Objection. Foundation.

9 THE COURT: Overruled.

10 A. Can you repeat the question?

11 Q. Sure.

12 A. I'm sorry.

13 Q. It didn't come as a surprise to her, right, because this
14 was in keeping with what Samy used to talk about. Didn't come
15 as a surprise to her, right?

16 MS. TEKEEI: Objection. Foundation.

17 THE COURT: Sustained.

18 Q. Did your mom know about Samy's interest in humanitarian
19 work?

20 MS. TEKEEI: Objection. Foundation.

21 THE COURT: Overruled.

22 A. I don't know. I don't know of the conversations that they
23 had together about humanitarian work.

24 Q. Do you recall all of you, including your mom and your dad,
25 attending a benefit for Syrian refugees in your home town?

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T. El-Goarany - cross

1 A. No.

2 Q. Do you recall Samy and your family giving money to a
3 Syrian -- actually, let me just show you this, what is 110BB.
4 Maybe this will refresh your recollection.

5 MS. TEKEEI: Your Honor, the witness did not say --
6 objection -- did not say he needed his recollection refreshed.

7 MS. SHROFF: Your Honor, I believe the record, if it's
8 read back, will demonstrate he did.

9 THE COURT: I don't believe he did say it, but
10 Mr. El-Goarany that document, why don't you review it, and say
11 if it does refresh your recollection that you did attend such a
12 benefit.

13 A. Yeah, I recall. But it wasn't in my home town.

14 Q. I'm sorry?

15 A. It was not in my home town.

16 Q. Wherever it was. It was a benefit for the Voice of the
17 Free Syrian Children, correct?

18 A. That is correct.

19 Q. And in attendance were your entire family; you, your mom,
20 your dad, Samy, correct?

21 A. That is correct.

22 Q. And at least from that your mom was aware of Samy's
23 interest in Syrian refugee work, correct?

24 MS. TEKEEI: Objection. No foundation.

25 THE COURT: Overruled.

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T. El-Goarany - cross

1 A. We attended the concert, as the pianist that was
2 performing --

3 Q. Sir, I just had a simple question for you. The question
4 was --

5 A. I'm giving context.

6 MS. TEKEEI: Your Honor, if the witness can answer the
7 question before he's interrupted.

8 MS. SHROFF: Your Honor --

9 THE COURT: Stop. Mr. El-Goarany, can you answer the
10 question that was posed which is based on your now recollection
11 that the family attended this event, does it refresh your
12 recollection that your mother was aware of your brother's
13 humanitarian aspirations?

14 A. It doesn't.

15 Q. It does not.

16 A. It does not.

17 Q. So your testimony is that you are not aware of your mother
18 knowing of Samy's interest in humanitarian work. Is that your
19 testimony, sir?

20 A. That is.

21 Q. That is, okay. And was your mother aware that Samy had
22 strong feelings about the Middle East?

23 MS. TEKEEI: Objection. Foundation.

24 THE COURT: Overruled.

25 A. She knew that he had expressed strong views, yeah, about

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T. El-Goarany - cross

1 the Middle East.

2 Q. And she also knew that Samy had talked with others about
3 wanting to do something about that, correct?

4 A. Repeat the question again? I'm sorry.

5 Q. Samy posted his views on Facebook, correct?

6 A. Correct.

7 Q. Your mom knew of Samy's postings on Facebook, correct?

8 A. He didn't have a Facebook at the time, but she knew that he
9 would post articles, yeah.

10 Q. In fact, there was a point where he'd had a discussion with
11 her about how Facebook was threatening to shut down his
12 account, correct, because of what he had posted, isn't that
13 right?

14 A. I don't recall that at all.

15 Q. You don't recall that Samy and your mom had a conversation
16 about whether or not he should shut down his Facebook account
17 and open a brand new one?

18 A. No. I don't recall that.

19 Q. And you were there when Samy and your mom talked about
20 Samy's desire to go do humanitarian work, correct? You
21 testified on direct, correct?

22 A. After she discovered the tickets, yes.

23 Q. Whenever. If you could just try and focus on my questions
24 that would be of great help. So they had a conversation, did
25 they not? Yes?

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T. El-Goarany - cross

1 A. Yes.

2 Q. And Samy explained to her the humanitarian work he wanted
3 to do, correct?

4 A. Yes.

5 Q. And she talked him out of it, correct? They had a long
6 conversation, correct?

7 A. They did.

8 Q. Right.

9 A. They did.

10 Q. It wasn't a one-second conversation, right, Mr. El-Goarany?

11 A. No. It was a long conversation, that's correct.

12 Q. And Samy expressed his position to your mom, tried to
13 convince her, correct? And then she tried to convince him the
14 other way, correct?

15 A. Yes.

16 Q. Now, in December of 2014, you, Samy and Ahmed were at your
17 parents' house in Goshen, is that correct?

18 A. In December 2014?

19 Q. Yes.

20 A. No.

21 Q. No?

22 A. So Ahmed would stay in Queens and we would visit him there.

23 Q. Right, but he also came to your house to visit you,
24 correct?

25 A. Not that time. He would, but not that particular vacation,

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T. El-Goarany - cross

1 he actually didn't come to Goshen.

2 Q. But he was in the United States?

3 A. That's correct, yeah.

4 Q. And during this time Samy updated and asked other people
5 for help in updating his resume, correct?

6 A. I don't remember that.

7 Q. Let me show you what is marked as 113BB. Do you see that,
8 sir?

9 MS. TEKEEI: I'm sorry, I missed that, the exhibit
10 number is it EE or BB? Thank you.

11 Q. Does that refresh your recollection at all, that he asked a
12 person named Kavaja Moshun Kali (ph) for help in updating his
13 resume?

14 A. No. It doesn't refresh my recollection.

15 Q. Were you aware at that time of Samy trying to look for
16 work? December 2014. Updating his resume and looking for
17 work?

18 A. I knew that he wanted to look for work because he was
19 planning to attend --

20 Q. Just, did you know he was looking for work, sir? Yes or
21 no?

22 A. Yes.

23 Q. Now, around that same period of time when Ahmed was
24 visiting from Egypt, the three of you hung out together,
25 correct?

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T. El-Goarany - cross

1 A. That's correct.

2 Q. And at times Samy and Ahmed just hung out without you, is
3 that correct?

4 A. Sometimes, yeah.

5 Q. And Samy confided in Ahmed, correct?

6 MS. TEKEEI: Objection.

7 THE COURT: If you know.

8 A. He told him certain things, yeah.

9 Q. We'll come back to him. But now I'm going to shift topics
10 a little bit and talk about Samy's relationship with your
11 father, okay?

12 A. Sure.

13 Q. Is it fair to say, sir, that your father and Samy did not
14 get along with each other?

15 A. There was tension, yeah.

16 Q. Your father was part of the Egyptian military at one time,
17 correct?

18 A. That's correct.

19 Q. Your father was, is pro-Sisi, correct?

20 A. I don't know. His views change a lot, so it's hard to say.

21 Q. Samy thought he was pro-Sisi, correct?

22 A. At the time of Sisi's so-called election he was pro-Sisi,
23 yeah.

24 Q. He, meaning your father?

25 A. I'm sorry, yeah, my father.

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T. El-Goarany - cross

1 Q. Goes without saying almost that Samy did not approve of
2 that, correct?

3 A. He did not.

4 Q. Your father was a developer at that time of luxury homes,
5 correct?

6 A. Not at that time.

7 Q. At that time was he already working for a realty company?

8 A. Yes.

9 Q. And Samy disapproved of that also, correct?

10 A. Not at all.

11 Q. Really?

12 A. Yes.

13 Q. Samy didn't have an opinion that your father,
14 quote-unquote, chased money?

15 A. I don't recall him saying that.

16 Q. You don't recall discussing with your brother the fact that
17 he found Mohamed El-Goarany's lust for money embarrassing?

18 A. I don't recall that.

19 Q. Do you recall telling the FBI that you and your brother
20 were raised and spoiled by your father?

21 A. I don't recall saying that.

22 Q. Do you recall telling the FBI that Samy perceived your
23 father as a capitalist and did not approve?

24 A. I don't recall that.

25 Q. Do you recall telling the FBI that Samy felt your father

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T. El-Goarany - cross

1 was too, quote-unquote, status quo?

2 A. I don't recall that.

3 Q. And sitting here today, you would agree with me, would you
4 not, that Samy and your father almost always needed a buffer
5 between them?

6 A. That's incorrect.

7 Q. It's incorrect?

8 A. Yes. They had many conversations without a buffer.

9 Q. They had many conversations without a buffer, I'm sure, but
10 in general the tension between the two of them was palpable to
11 the point where either you or Khaled played buffer, correct?

12 A. It depends. It depends on what type of conversation. And
13 to the point of that escalation.

14 Q. On politics, Samy and your father did not agree, correct?

15 A. They didn't agree on certain things.

16 Q. Could you tell me what politics they agreed on? Did they
17 agree on Sisi? No. Right?

18 A. No.

19 Q. Did they agree on Assad? No, right?

20 A. Actually, yeah.

21 Q. They did?

22 A. My dad does not like Bashar Assad.

23 Q. Right, but your dad would not necessarily think Samy should
24 go help the people hurt by Assad, correct?

25 MS. TEKEEI: Objection. Foundation.

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T. El-Goarany - cross

1 THE COURT: If you know.

2 A. I don't know.

3 Q. You don't?

4 A. No.

5 Q. Is it fair to say that your father was disappointed that
6 Samy had still not graduated college six years after attending
7 one?

8 A. I can't say what my father felt.

9 Q. Did your father talk to Samy about trying to graduate
10 already?

11 A. Like any parent would, yeah, he did.

12 Q. Okay, like any parent would, he did, right? That was a
13 source of tension between the two of them, like in any family,
14 correct, Mr. El-Goarany? And he'd been paying his tuition for
15 six years, right?

16 A. Well, not entirely.

17 Q. Not entirely. Well, let's talk about that. Who paid his
18 tuition, sir?

19 A. Financial aid. Federal and state financial aid.

20 Q. Your father paid part of the bill, the United States paid
21 part of the bill and Samy six years later hadn't graduated,
22 correct?

23 A. That's correct.

24 Q. And this is the same financial aid that Samy later used to
25 buy his ticket to Turkey, correct?

H1HFSAM3

T. El-Goarany - cross

1 MS. TEKEEI: Objection. Foundation.

2 THE COURT: If he knows.

3 A. I don't know -- sorry. I don't know if that was the only
4 source of money that he used.

5 Q. Wasn't it one source, sir?

6 A. Yeah. But you're saying that's the only source. That's
7 not true. It's multiple sources.

8 Q. You got financial aid from the school, correct?

9 A. Yes.

10 Q. He didn't go to school, correct?

11 A. He went to school for 5-1/2 years and one semester he
12 didn't attend. One out of five years.

13 Q. Right, and then he took that money, correct?

14 A. He took part of it, yes.

15 Q. And he used that money to pay for part of his ticket to
16 Turkey, correct?

17 A. That is correct.

18 Q. Okay. Let's talk about Sammy's relationship with your older
19 brother, Khaled. There was also some tension there, correct?

20 A. Sometimes, like older brothers fight.

21 Q. Yeah, but here there was a real tension, right, your father
22 compared the two. Khaled had a job, correct?

23 A. I can't say that he compared, but, yes, Khaled had a job.

24 (Continued next page)

H1H5gam4

T. El Goarany - cross

1 BY MS. SHROFF:

2 Q. Khaled had gone to college, correct?

3 A. Khaled attended college, yes.

4 Q. Khaled had graduated from college, correct?

5 A. Correct.

6 Q. He had a job, initially, at Deloitte, and then at some
7 other company, correct?

8 A. Deloitte is the company that he works in right now.

9 Q. So he had a job, correct?

10 A. Yeah, he had a job.

11 Q. And isn't it fair to say, Mr. El- Goarany, that Samy felt
12 that your dad compared the two of them, sometimes unfairly? He
13 complained about that to you, correct?

14 A. I don't recall him complaining about that.

15 Q. You don't recall him saying he was tired of his father
16 comparing him to Khaled?

17 A. No. He never told me that.

18 Q. Okay.

19 You also knew, did you not, that Khaled had Samy's
20 password to the Facebook account, right? You knew that?

21 A. I didn't know, actually.

22 Q. You did know you knew that Khaled logged into Samy's
23 Facebook account at some point, correct?

24 A. I learned that later on but I did not know that until much
25 later.

H1H5gam4

T. El Goarany - cross

1 Q. Right, but you knew that when Khaled logged in, correct?

2 A. I didn't know when he initially logged in to look at Samy's
3 Facebook.

4 Q. But you learned about it at some point?

5 A. Yes.

6 Q. Right.

7 And Samy had given, you learned also, did you not,
8 this password so that Khaled could use Samy's Facebook account
9 to date girls from the Muslim association at his college,
10 correct?

11 A. That's incorrect.

12 Q. That's incorrect according to you?

13 A. According to me it is incorrect.

14 Q. So, it's incorrect that Khaled had recently, or in the last
15 couple of years, gotten a divorce? That's incorrect?

16 MS. TEKEEI: Objection.

17 THE COURT: Overruled.

18 A. He did have a divorce, yeah.

19 Q. He got a divorce, right?

20 A. Uh-huh.

21 Q. And he was looking to -- it is in his 302, Khaled's 302.

22 He was looking to date again, correct?

23 It is normal, he was looking to date again, right?

24 A. Correct.

25 Q. Okay.

H1H5gam4

T. El Goarany - cross

1 And there came a point, did there not, in January,
2 when Samy left the United States, right?

3 A. Correct.

4 Q. Now, you testified on direct, did you not, that you were
5 unaware that Samy left until you got back to Rego Park and
6 looked in your apartment, correct?

7 A. Correct.

8 Q. That's really not true, is it?

9 A. It is true.

10 Q. It is not true, Mr. El- Goarany, because Ahmed, your
11 cousin, contacted you through Facebook, did he not?

12 A. He did.

13 Q. Right. And he told you rather urgently, did he not,
14 Mr. El- Goarany, that Samy was taking off; isn't that right?

15 A. I don't recall that.

16 Q. You don't recall having an exchange with your cousin Ahmed
17 who at that time had just returned, had he not, to Egypt,
18 correct?

19 A. Yeah, he returned for a week or so.

20 Q. And Ahmed contacted you and said he has rebooked his ticket
21 and is leaving in an hour; isn't that true, Mr. El- Goarany?

22 A. I don't recall that.

23 Q. Let me see if I can help you out then.

24 MS. SHROFF: May I approach, your Honor?

25 THE COURT: Yes, you may.

H1H5gam4

T. El Goarany - cross

1 MS. SHROFF: Thank you.

2 Q. Take your time. Are you finished?

3 A. Do you want me to look through the whole thing?

4 Q. Whatever refreshes your recollection, sir.

5 A. Okay.

6 Q. And that refreshes your recollection, Mr. El- Goarany, does
7 it not, that you knew well before you got to your apartment in
8 Rego Park, that Samy had left, right?

9 It's been a while.

10 A. Yeah. Um, but yeah, I did have that conversation.

11 Q. Right.

12 Ahmed reaches out to you, correct?

13 A. Correct.

14 Q. He tells you that Samy had rebooked his ticket, correct?

15 A. He told me one -- he told me that he left. I don't
16 remember if he told me that he rebooked his ticket. I knew he
17 rebooked his ticket but I didn't know when.

18 Q. And Ahmed told you that he had left, correct?

19 A. Yeah.

20 Q. Okay.

21 Now, on January 27th, because he left the day after --

22 A. Correct. He left January 20th.

23 Q. You drove him to the train station, correct?

24 A. No, I drove him to the train station. I did drive him to
25 the train station but it wasn't the day before, it was a few

H1H5gam4

T. El Goarany - cross

1 days.

2 Q. A few days before.

3 He left a few days before to go back to his apartment
4 in Rego Park, correct?

5 A. Yeah, the week before because he left -- he flew on
6 Wednesday so I was at home during the weekend and that's when I
7 dropped him off at the train station. So, three to five days,
8 roughly, I can't remember specifically, before.

9 Q. So you stayed behind and Samy left, correct?

10 A. Correct.

11 Q. And you testified on direct before, had you not,
12 Mr. El- Goarany, that you went with Samy to buy many things
13 that he could take with him because you wanted to spend as much
14 time with him as possible?

15 MS. TEKEEI: Objection. Mischaracterization.

16 THE COURT: Overruled.

17 Q. Isn't that what you testified to, sir?

18 A. One of the reasons, yeah.

19 Q. Yeah.

20 So you went with him to buy the stuff he was taking to
21 the Islamic State but he left your parents home four or five
22 days ahead of time before he was taking off, correct? Yes or
23 no.

24 A. Correct.

25 Q. Okay.

H1H5gam4

T. El Goarany - cross

1 Now, you and Ahmed were the two people who discussed
2 Samy's decision to leave, correct?

3 A. He was the only person I discussed it with, yeah.

4 Q. And you told Ahmed, did you not, that you felt that people
5 just did not take the time to understand Samy?

6 A. I don't recall that.

7 MS. SHROFF: May I, your Honor?

8 THE COURT: Yes, you may.

9 Q. While she looks for that let me ask you some follow-up
10 questions.

11 Do you recall saying to Ahmed that you did not agree
12 with Samy's decision but you understood "the pain he felt in
13 staying here." Do you recall that conversation with him?

14 A. I do.

15 Q. I'm sorry?

16 A. Sorry. I do recall that, saying that.

17 Q. And then you said to Ahmed, "I agree with what Samy did is
18 kind of selfish but at the same time, how selfish is it really,
19 his personal happiness is on the line."

20 Do you recall saying that to Ahmed?

21 A. I don't recall saying that specifically.

22 Q. And is it fair to say that some part of you empathized with
23 Samy's feelings?

24 A. Yeah.

25 Q. And you felt, did you not, that even though Samy was making

H1H5gam4

T. El Goarany - cross

1 the wrong decision it was his decision to make, correct?

2 A. I don't know what I felt. I just --

3 Q. You told Ahmed Samy had a right to be happy, correct?

4 A. Like everybody does, yeah.

5 Q. And you and Ahmed decide and you made what you call a pact
6 not to say anything to anyone else including the rest of your
7 family, correct?

8 A. We decided to keep it a secret.

9 Q. So you decided not to tell anyone else including anyone
10 else in your family, correct?

11 A. That's correct.

12 Q. There came a point right around there, January 28, January
13 29, when people started asking you where is Samy, correct?

14 A. Correct.

15 Q. And you knew that he had been on an airplane and had gone
16 with a destination of Turkey, correct?

17 A. Yes.

18 Q. And you did not tell anybody that, correct?

19 A. I did not.

20 Q. And neither did Ahmed, correct?

21 A. I honestly don't know what he said. We made a promise not
22 to say anything but I don't know that he kept his promise.

23 Q. Well, you and Ahmed had several conversations, right,

24 Mr. El- Goarany, during this time frame?

25 A. We had a few, yeah.

H1H5gam4

T. El Goarany - cross

1 Q. And everybody was asking a hundred different questions
2 within the El Goarany family, correct?

3 A. Yeah.

4 Q. Ahmed's mother was saying that your mother was the person
5 who had bought the airline ticket, correct?

6 MS. TEKEEI: Objection. Foundation.

7 THE COURT: If he knows.

8 THE WITNESS: I don't know.

9 BY MS. SHROFF:

10 Q. You don't know?

11 A. I don't know.

12 Q. Do you recall having a long Facebook exchange, sir, with
13 Ahmed, about all of these issues? Let me just give you, again,
14 so that --

15 THE COURT: Let's do this, ladies and gentlemen. It
16 is about five minutes of 3:00. Let's take our afternoon break.
17 10 minutes after 3:00 please be in the jury room. Do not
18 discuss the case, do not read any media about the case, and do
19 not do any research.

20 (Continued on next page)

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H1H5gam4

T. El Goarany - cross

1 (Jury not present)

2 MR. QUIGLEY: Nothing from us, your Honor.

3 MS. SHROFF: No, your Honor.

4 THE COURT: 15 minutes.

5 (Recess)

6 (Continued on next page)

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T. El Goarany - cross

1 (Jury present)

2 THE COURT: Ms. Shroff.

3 MS. SHROFF: Thank you, your Honor.

4 BY MS. SHROFF:

5 Q. Let me just digress for one short minute, Mr. El- Goarany.

6 Do you recall sitting here today how many times you
7 met with Assistant United States Attorney Negar Tekeei in
8 preparation for your testimony here today?

9 A. I met I don't know how many times exactly, but it was -- it
10 was frequently. Yeah.

11 Q. More than five times?

12 A. Yeah.

13 Q. More than 10 times?

14 I will help you out. I think you actually met just
15 with the AUSAs about 11 times?

16 A. Okay.

17 Q. And you met with them to discuss the subject of your
18 testimony, correct?

19 A. Yes.

20 Q. And Mr. Quigley over there, he is the man on the corner; he
21 was present for some, correct?

22 A. For some he was, yes.

23 Q. And Mr. DeFilippis over here, he was present for some,
24 correct?

25 A. A couple, yeah.

H1H5gam4

T. El Goarany - cross

1 Q. Ms. Tekeei was present for all, correct?

2 A. That's correct.

3 Q. And Agent Collie here was also present for some and absent
4 for some, correct?

5 A. That is correct.

6 Q. And your attorney was there, present for some and absent
7 for some, right?

8 A. Yeah.

9 Q. But Ms. Tekeei was present for every one of those 11
10 meetings, correct?

11 A. Correct.

12 Q. And she and you, together, prepared for your testimony here
13 today, correct?

14 A. Yeah, we prepared.

15 THE COURT: Ms. Shroff, can you move the microphone
16 closer, please?

17 Q. She went over the chats that she showed you in court today,
18 correct?

19 A. Yeah, we reviewed them. Yeah.

20 Q. She showed you each one of those exhibits that she put up
21 and you testified to before the jury, correct?

22 A. That is correct.

23 Q. But she did not show you the chats between you and your
24 cousin Ahmed, correct?

25 A. No.

H1H5gam4

T. El Goarany - cross

1 Q. And it is fair to say, is it not right, Mr. El- Goarany,
2 that you never spoke to me, correct?

3 A. I did not.

4 Q. Okay.

5 So, when you testified on direct with Ms. Tekeei, you
6 and she had practiced testimony together, correct?

7 A. We prepared going through the events of what happened,
8 yeah.

9 Q. And these were not short meetings, right? You had lengthy
10 meetings with her, correct?

11 A. Yeah. They were a few hours long.

12 Q. Now, going back to January 28th and the period that
13 followed, just the next day or two that followed, it's fair to
14 say, sir, is it not, that everyone in your family was asking
15 you where Samy was, correct?

16 A. Yeah; my mother and my father -- sorry.

17 My mother, my father, and those were the main ones.
18 My older brother, yeah.

19 Q. Khaled, right?

20 A. Yes.

21 Q. And when they asked you, you did not respond by telling
22 them the truth, correct?

23 A. That is correct.

24 Q. Right.

25 And you and Ahmed talked about what you would say to

H1H5gam4

T. El Goarany - cross

1 the family if they pressed you, correct?

2 A. We discussed what we would say, yeah.

3 Q. Right.

4 And you and Ahmed decided that you would just deny
5 that either of us know anything and say a big fuck you to the
6 rest of the family.

7 Do you recall telling that to Ahmed as your plan?

8 A. I recall saying that I -- that we were going to -- sorry.

9 I recall saying that we were going to deny everything.
10 I don't remember the last part.

11 Q. Well, let me show you -- could you take a minute and read
12 that, please, to yourself?

13 A. All right.

14 Q. Mr. El- Goarany, does that refresh your recollection that
15 what you in fact told Ahmed was: Just deny that either of us
16 knows anything and saying a big fuck you -- in all caps -- to
17 the rest of the family.

18 That was your message to Ahmed El Goarany, correct?

19 A. That's what it said, yeah.

20 Q. Right.

21 And you and Ahmed also discussed the fact that Ahmed
22 was getting pressure from his family as to where Samy was,
23 correct?

24 A. Yeah, he was.

25 Q. Right.

H1H5gam4

T. El Goarany - cross

1 And at one point Ahmed called you up or Facebooked you
2 and said he was really upset because he was told you were
3 blaming him, correct?

4 A. I don't recall that.

5 Q. You don't recall that?

6 Do you recall telling your cousin Ahmed that you would
7 never give him up. Do you recall saying that to him?

8 A. Yeah.

9 Q. Okay.

10 And you recall telling your cousin Ahmed that your
11 families were now forcing you to get together as a large group,
12 correct?

13 A. I --

14 Q. You don't remember that?

15 A. No, I don't remember.

16 Q. You remember saying to Ahmed that you now had to go meet
17 with your uncle whose guts your mother hated.

18 Do you recall that?

19 A. No, I don't.

20 Q. And you're sitting here today, you recall having a
21 conversation with Ahmed about how you were going to go and not
22 say anything because, after all, it was a free meal.

23 Do you recall that?

24 A. No.

25 Q. And do you recall saying to Ahmed that you are capable of

H1H5gam4

T. El Goarany - cross

1 doing that because the family thinks of me as stupid or
2 something because I'm always quiet or complacent and nice. I
3 will keep this illusion going as it works for me.

4 Do you recall saying that?

5 A. No. I don't.

6 Q. Let me -- does that refresh your recollection?

7 A. Yeah, I remember having this conversation about our family,
8 yes.

9 Q. And do you recall having a conversation with Ahmed about
10 how upset you were about your father, about the way he was
11 handling this, to say to him to wake me up and ask me where
12 Samy is, my fucking dad. I told him to tell people at the
13 right time.

14 Do you recall saying that?

15 A. No.

16 Q. You may not recall, it's been a while.

17 A. I'm sorry?

18 Q. You may not recall, it's been a while.

19 A. No, I am just reading to get -- because these
20 conversations, I don't remember them, but if I get a sort of
21 context as to what happened, then -- yeah, I don't. I -- like,
22 I am seeing it. I just don't remember that conversation.

23 Q. And is it fair to say, Mr. El- Goarany, that throughout
24 this time period -- and I am talking about late January -- you
25 never tell anyone that you know where Samy is, correct?

H1H5gam4

T. El Goarany - cross

1 A. That's correct.

2 Q. And neither does Ahmed, your cousin Ahmed. He never tells
3 anybody that he knows exactly where Samy is, correct?

4 A. I don't know.

5 Q. Well, Ahmed tells you, actually, that he is never going to
6 tell anybody. That's true, right? You remember that? Ahmed
7 saying to you trust me, they will not learn from me?

8 A. He told me that, yeah.

9 Q. Right.

10 Now, on January 28 you hear from Samy, correct?

11 A. Correct.

12 Q. And from Samy you get a message on Facebook, he says to you
13 I'm in my hotel, bro. Correct?

14 A. Yeah. He told me he was in his hotel, yeah.

15 Q. And that's the first hotel, right, because, as you learned
16 later on, Samy is in two different hotels in Turkey, correct?

17 A. It is just the one.

18 Q. Well, don't you remember later on a, and I will get to it,
19 when your father gets to Turkey you tell him -- by him I mean
20 Samy -- dad is in Istanbul now. He is at the first hotel where
21 you stayed if you want to try and meet him.

22 Do you recall that?

23 A. Yeah, I do.

24 Q. So, do you now recall there were two hotels when he stayed?

25 A. What I meant is the first hotel.

H1H5gam4

T. El Goarany - cross

1 Q. Right.

2 A. That he stayed at. There is no, to my recollection, a
3 second hotel that he stayed at.

4 Q. So, to your recollection you don't recall Samy moving from
5 one hotel to another hotel in Istanbul?

6 A. No.

7 Q. Now, going back to January 29th, he again reaches out to
8 you, correct?

9 A. Yeah.

10 Q. And he tells you that he is safe and he is about to head
11 out, correct?

12 A. Yes. That's correct.

13 Q. Right.

14 And Ms. Tekeei asked you many times what these words
15 meant to you, correct?

16 A. Correct.

17 Q. And these are the words you received on Facebook, correct?

18 A. Correct.

19 Q. Right. I mean, Samy tells Tarek he is safe and he is
20 heading out, somebody is heading out, they're leaving the hotel
21 and heading out, correct?

22 A. Yeah.

23 Q. And then he also tells you that he will reach out to you
24 and your parents in about three days max, correct?

25 A. Correct.

H1H5gam4

T. El Goarany - cross

1 Q. And then he tells you that he is waiting for his contacts
2 there to contact him, correct?

3 A. Correct.

4 Q. And you, during this time, again, do not tell anyone where
5 Samy is, correct?

6 A. Correct.

7 Q. You never asked Samy the name and the address of the hotel
8 he is staying at, correct?

9 A. No.

10 Q. But you had been there when he was making some, at least,
11 of his travel plans, right? You have testified to that on
12 direct, correct?

13 A. Yeah. I knew of some of his travel plans but he was very
14 vague.

15 Q. But you knew -- I mean, you went with him to Turkish
16 Airline, correct?

17 A. Yeah.

18 Q. So you knew he was at least going to fly on Turkish airline
19 and going to Turkey, correct?

20 A. That's correct.

21 Q. And you knew he was going to stay in Istanbul, correct?

22 A. Yeah.

23 Q. And you know he had made his reservation on Expedia on his
24 new computer and through his own accounts, correct?

25 A. No. I was not aware of that.

H1H5gam4

T. El Goarany - cross

1 Q. You were not aware of how he made his hotel reservations?

2 A. That is correct. I was not aware.

3 Q. And when Samy got back in touch with you and said that he
4 would reach out in three days max, you did not tell anyone in
5 your family that you had heard from Samy and that Samy was
6 okay, correct?

7 A. Correct. Yeah.

8 Q. And, you in fact lied to everyone involved and pretended
9 that you did not know where Samy had gone?

10 A. Correct.

11 Q. And your brother Khaled, who had Samy's password, had now
12 logged on to Samy's Facebook account, correct?

13 A. That's what I was told.

14 Q. Right.

15 And after they had logged on they had read Samy's
16 Facebook page and his entire Facebook history and were now
17 asking both Ahmed and you many pointed questions about what
18 they had read, correct?

19 A. He asked me questions, yeah.

20 Q. Right.

21 And you basically were able to convince them -- by
22 them I mean your mother, your father, and by then even your
23 aunts and your uncles were involved, correct?

24 A. Very limitedly but they were -- sorry.

25 They were involved but not to the extent of my parents

H1H5gam4

T. El Goarany - cross

1 and Khaled, yes.

2 Q. And you managed to fool all of them into believing that you
3 did not know where Samy was, correct?

4 A. I lied to them but --

5 Q. Successfully is what I'm saying. You didn't get caught.
6 They didn't come up to you and catch you in a lie and say:

7 A-ha. You know. Right?

8 A. No.

9 Q. Okay.

10 And you managed to lie to them on the 28th, the 29th,
11 the 30th, all of those days; is that correct?

12 A. Yes.

13 Q. You managed to lie all the way into early February,
14 correct?

15 A. Correct.

16 Q. And do you recall, sir, when was the first time the FBI
17 came to you to talk to you about this situation?

18 A. It was early February. I don't recall the exact date,
19 though.

20 Q. And the FBI came to your apartment, you testified, did you
21 not, your apartment in Rego Park?

22 A. Yeah.

23 Q. And who was in that apartment, sir?

24 A. During this meeting?

25 Q. Yes.

H1H5gam4

T. El Goarany - cross

1 A. It was myself, my parents, and the two agents.

2 Q. Okay. So, two agents and the three of you were questioned
3 by the FBI, correct?

4 A. Correct.

5 Q. And the FBI had been invited into your home, correct?

6 A. That is correct.

7 Q. Your family had sought out the help of the Federal Bureau
8 of Investigation, correct?

9 A. Correct.

10 Q. And when the Federal Bureau of Investigation -- was this
11 agent right here there at the investigation, Agent Collie?

12 A. Not at the first meeting.

13 Q. And there was another Agent Nguyen, if you remember his
14 name?

15 A. Yes.

16 Q. And he sat down and he talked to you, correct?

17 A. Yeah, he did.

18 Q. He told you the importance of what he was doing there,
19 correct?

20 A. He told me his intentions, yeah.

21 Q. He told you he was the FBI, correct?

22 A. Yes.

23 Q. The federal law enforcement agency of the United States of
24 America, correct?

25 A. Yes.

H1H5gam4

T. El Goarany - cross

1 Q. And one of the first things the FBI told you was lying to
2 us is a crime, don't lie; correct?

3 A. Correct.

4 Q. Right.

5 And you already knew that you shouldn't be lying to
6 the FBI, right?

7 A. Yeah.

8 Q. And, nevertheless, you decided to lie to the Federal Bureau
9 of Investigations, correct?

10 A. Correct.

11 Q. And you lied on February 6, 2015 to the FBI because you
12 were -- what was your reason, sir, you said?

13 A. I said that I was scared of the outcome of what would
14 happen to my family and myself if the FBI knew that I was --
15 the FBI knew that I was aware Samy had intentions of joining
16 ISIS.

17 Q. And is it fair to say that you never discussed being scared
18 with either your mother or your father, correct?

19 A. Not at that point.

20 Q. Right. I'm only talking about February 6th, sir. You
21 didn't talk to them about being scared, correct?

22 A. Scared about the FBI?

23 Q. Right.

24 A. No.

25 Q. And you obviously didn't tell the FBI that you were scared,

H1H5gam4

T. El Goarany - cross

1 correct? You wanted the FBI to believe you, right?

2 A. I just wanted to keep my family safe. That's all I wanted.

3 Q. Samy was your family, correct?

4 A. He is included.

5 Q. Right; and you wanted to keep Samy safe, correct?

6 A. I wanted to keep open communications and I didn't know what
7 would happen if --

8 Q. That's why I said in the beginning you were in a bind,
9 correct?

10 A. Yeah.

11 Q. Right.

12 And your thought, on February 6, was to lie to the
13 FBI, right?

14 A. Like I said before, I didn't know what would happen so I
15 did lie. I did that, but --

16 Q. Now, this interview went on -- the FBI interviewed all
17 three of you -- did they interview you separately or all three
18 together?

19 A. The first meeting my parents were in the room but because
20 it was at the studio, but the interview focused on what I knew
21 and what they -- what I could show them. Yeah.

22 Q. And after -- the interview was fairly long; is that right,
23 Mr. El- Goarany?

24 A. It was a few hours, yeah.

25 Q. Right.

H1H5gam4

T. El Goarany - cross

1 And after a few hours there came a point when the FBI
2 said, okay, here is our business card. If anything comes up,
3 give us a call, and left, correct?

4 A. Yeah. They gave us their contact information, yeah.

5 Q. Right.

6 And then the next time you met with the FBI do you
7 recall, was when?

8 A. I don't know the exact time. It was a few times. I don't
9 recall the next immediate time that I met them.

10 Q. Would it help you that if I told you the next time you met
11 with the FBI was in May of 2015?

12 MS. TEKEEI: Objection to the question.

13 THE COURT: Overruled.

14 A. Not really.

15 Q. No?

16 A. Yeah. I know I met them after.

17 Q. Fair enough.

18 Is it fair to say, sir, that there came a point that
19 your dad had gone to Turkey to find out what route Samy had
20 taken, correct?

21 A. Correct.

22 Q. And that was in May, correct?

23 A. Yeah. I think so, yeah.

24 Q. And that's about the time that the FBI came back to talk to
25 you, correct?

H1H5gam4

T. El Goarany - cross

1 A. Yeah. They talked to me while my dad was away.

2 Q. That's about the second time. Does that help you place
3 things in a timeline?

4 A. Yeah. I just wasn't sure if there was a time in between.

5 Q. And when you met with them on the second time you continued
6 to lie, correct?

7 A. Yeah.

8 Q. And you told the FBI that your father was in Egypt,
9 correct?

10 A. I lied to them, yes, but I don't recall the lie
11 specifically.

12 Q. That's okay.

13 But also, when the FBI was talking to you there were
14 certain things that they had focused on that you answered for
15 them, correct?

16 A. Like what? I don't know.

17 Q. Well, at some point you came clean and you told the FBI,
18 did you not, that your father had gone to Turkey, correct?

19 A. Correct. Yeah.

20 Q. Right.

21 And you told the FBI that your father had gone to
22 Turkey to find out what route Samy took, correct?

23 A. Yeah.

24 Q. And the FBI asked you a lot of questions about what your
25 father was doing in Turkey, correct?

H1H5gam4

T. El Goarany - cross

1 A. Yeah.

2 Q. Right.

3 And the FBI asked you what your father -- where your
4 father was staying in Turkey, correct?

5 A. I don't recall the specific questions that they asked me.
6 I just know that they asked me about his whereabouts and what
7 were his intentions of going.

8 Q. By his whereabouts and his intentions you mean your
9 father's, correct?

10 A. Yes, I do.

11 Q. And when the FBI asked you that, you told them what you
12 knew about where your father was, correct?

13 A. Yeah.

14 Q. Okay.

15 And you also told them that your father was in Turkey
16 at the time that they were talking to you, correct? At that
17 very moment, correct?

18 A. Yeah.

19 Q. And they asked you, did they not, if you had heard from
20 your father while he was in Turkey, correct?

21 A. Yeah, I recall that.

22 Q. Right.

23 Now, before your father left to go to Turkey, you and
24 your father had discussed the trip, correct?

25 A. Yeah.

H1H5gam4

T. El Goarany - cross

1 Q. And your father had talked to you about why he was going to
2 go to Turkey?

3 A. Yeah. He told me why he wanted to go.

4 Q. And what did he tell you, sir?

5 A. He told me that he wanted to sort of retrace Samy's steps
6 and to find him and to, with the ultimate hope of bringing him
7 back home.

8 Q. And he wanted to retrace the route Samy had taken, right?
9 Tried to figure it out?

10 A. That was one of his -- that was, like, the main method he
11 used, yeah.

12 Q. And he also told you or did he not tell you that he was a
13 little frustrated that the FBI wasn't doing more?

14 A. Yeah, he told me that.

15 Q. Right.

16 And so, he and you were in touch after he reached
17 Turkey -- by he I mean your father -- correct?

18 A. Yeah. We were in touch.

19 Q. Right.

20 He told you that he had reached and checked into the
21 same hotel that Samy had stayed at, correct?

22 A. Correct.

23 Q. And he told you that he had spoken with the manager of that
24 hotel, correct?

25 A. Correct.

H1H5gam4

T. El Goarany - cross

1 Q. And he told you what the manager had told him, correct?

2 A. He -- I don't know if he told me the specifics of that
3 conversation at that time. He told me more when he came back
4 to the states -- to the United States.

5 Q. But he did tell you, though, that he had spoken with the
6 manager, correct?

7 A. Yes, he did speak to the manager of the hotel. Yeah.

8 Q. And he also told you over a period of days who else he had
9 spoken to while he was in Turkey, correct?

10 A. Yeah.

11 Q. And you recall him saying that he had spoken with a person
12 named Attiya, correct?

13 A. Correct.

14 Q. And you recall your father saying that he had asked Attiya
15 where Samy was, correct?

16 A. Correct.

17 Q. And you recall your father saying to you and Attiya told
18 him he did not know; correct?

19 A. I don't -- I don't remember.

20 Q. You don't remember him saying Attiya told me he doesn't
21 know where Samy is? That would be a big thing to not remember.

22 A. Yeah, he told me that.

23 Q. And you told that to the FBI, correct, because
24 mid-interview you decided now you were going to be truthful
25 with the FBI, correct? You passed that along as the truth --

H1H5gam4

T. El Goarany - cross

1 which it was, correct?

2 A. Yeah. I told the FBI eventually.

3 Q. No, not eventually.

4 You told them that on May 6th while they were there,
5 right? You lied to them in the beginning, they said listen,
6 buddy, stop lying, and you said, you know what? I am going to
7 stop lying. Correct?

8 A. Yeah. I don't know if that was in May. I thought that was
9 in summer but I don't recall the exact meeting.

10 Q. Okay.

11 A. I just know that that happened.

12 Q. Okay.

13 Now, your father was in Turkey for a couple of days,
14 correct?

15 A. Yes, correct.

16 Q. Right.

17 And there came a time when your father got back to you
18 and you also heard from Samy, correct?

19 A. Yes.

20 Q. And it's fair to say, sir, is it not, that Samy was much
21 more in touch with you than he was with -- during this time
22 period with either your mother or your father obviously, right?

23 A. Yeah.

24 Q. Okay.

25 Now, focusing on your second interview with the FBI

H1H5gam4

T. El Goarany - cross

1 agents, you told them you answered a lot of the questions that
2 the FBI asked you, correct?

3 A. Yeah.

4 Q. Right.

5 And some of the answers you gave to them were actually
6 true, correct?

7 A. Yeah.

8 Q. You told the FBI that it was your assessment of Samy that
9 right until the very end he was undecided as to what he wanted
10 to do?

11 A. I don't recall saying that.

12 Q. You don't recall telling the FBI that Samy went back and
13 forth several times about his decision?

14 A. Yeah. I remember saying that.

15 Q. You told the FBI, did you not, that Samy had rebooked his
16 airline tickets several times, correct?

17 A. I didn't say several times. It was only once.

18 Q. It was more than once, right?

19 A. No.

20 Q. He didn't rebook his ticket more than once, he rebooked his
21 ticket once after his long conversation with your mother,
22 correct?

23 A. Uh-huh.

24 Q. And he rebooked his ticket the second time because he
25 didn't fly out on date he was supposed to fly out on, correct?

H1H5gam4

T. El Goarany - cross

1 A. Yeah.

2 Q. And then he flew out the third time, correct?

3 A. Yeah, that's one rebooking.

4 Q. And when you talked to the FBI you explained to them, did
5 you not, all of what was going on for Samy over a period of
6 time?

7 A. Yeah.

8 Q. And you told the FBI about his conversation with your
9 mother and how he changed his mind after that talked, correct?

10 A. Correct.

11 Q. And you told them, did you not, sir, that Samy needed some
12 time to reassess and see what he was doing, correct?

13 A. I don't -- I don't recall saying that.

14 Q. Okay.

15 And do you recall telling the FBI that Samy had
16 discussed many things with you including the fact that he
17 wanted to go but that he found the prospect scary.

18 Do you remember telling the FBI that?

19 A. Can you repeat the question? I'm sorry.

20 Q. Sure.

21 You recall telling the FBI that Samy expressed to you
22 that it was scary to take this trip even though he wanted to
23 take it?

24 A. I don't recall saying that.

25 Q. And the FBI asked you what were the things that you thought

H1H5gam4

T. El Goarany - cross

1 led Samy to decide to leave, correct?

2 A. Yeah.

3 Q. And you told them that there were many things. You said
4 there were personal issues, temper issues, girl issues, and he
5 was always worried about the Islamic way, correct?

6 That's what you told the FBI, correct?

7 A. It was many issues, yeah.

8 Q. And all of these were true, right? You were being truthful
9 when you said that to them -- to the FBI?

10 A. Yes.

11 Q. Now, when the FBI talked to you, you said that at that time
12 you believed that Samy did not sympathize with the extremist
13 groups in the Sinai who pledged allegiance to ISIS, correct?

14 A. I don't remember saying that.

15 Q. You don't remember telling the FBI that Samy was always up
16 in the air about the violent part of ISIS?

17 A. I don't recall.

18 Q. Okay.

19 And you told the FBI, did you not, and actually they
20 specifically asked you whether or not Samy sympathized with
21 other groups, correct? One of the other groups they asked you
22 about was Hamas, correct?

23 A. They may have, yeah.

24 Q. And you told them that he sympathized with Hamas, correct,
25 which he did?

H1H5gam4

T. El Goarany - cross

1 A. He did.

2 Q. Right.

3 And you told them that he sympathized with the Muslim
4 Brotherhood, correct?

5 A. Correct.

6 Q. And that was also correct, right?

7 A. That he sympathized with the Muslim Brotherhood? Yeah.

8 Q. And you also told them that he was a hundred percent
9 anti-military and anti-interventionist, correct?

10 A. Correct.

11 Q. And by anti-interventionist, what did you mean?

12 A. Anti foreign intervention.

13 Q. And that is the reason, you explained to the FBI, that in
14 your opinion Samy would not support the Free Syrian Army,
15 correct?

16 A. He -- he was critical of the Free Syrian Army, yeah.

17 Q. And you told that to the FBI, correct?

18 A. Yeah.

19 Q. Okay.

20 You told the FBI that it was possible, in your mind,
21 that Samy could even join a local militia in Syria, correct?

22 A. I don't -- I don't remember saying that.

23 Q. That was not one of the things that Ms. Tekeei went over
24 with you in your prep? No? It's okay.

25 A. Yeah, I --

H1H5gam4

T. El Goarany - cross

1 MS. TEKEEI: Objection, your Honor. If he remembers.

2 Q. Now, you continued in talking to the FBI as and when they
3 came to interview you, correct?

4 A. Yeah. Correct.

5 Q. And they interviewed you for a fairly long time on May 6th,
6 and again at that time your father was in Turkey, correct?

7 A. Again, I don't remember if it was on May 6th. I don't
8 remember that specific time.

9 Q. Did you tell the FBI at that time where your father was
10 staying? Did they ask you and did you provide that information
11 to them?

12 A. I can't -- I don't know or remember what I said during that
13 meeting. Like, I remember having the meeting, I just don't
14 remember the specifics of where my dad was staying or etc.

15 Q. And it is fair to say, sir, right, that while you were
16 talking to your father and he was in Turkey, you did not tell
17 him that the FBI had come to visit you, correct?

18 A. I don't remember.

19 Q. And it is fair to say that your father was in Turkey for a
20 while and then he went back to -- did he go back or did he just
21 then go to Egypt because he was attending a military conference
22 or reunion there? Do you recall that?

23 A. I think he went to Egypt after. I'm pretty sure. And then
24 he came back to the states.

25 Q. And it is fair to say that you learned that when he came

H1H5gam4

T. El Goarany - cross

1 back to the states, he flew into JFK and the FBI were there to
2 greet him, correct?

3 A. Yeah.

4 Q. And when he came back to the United States, the FBI sat him
5 down at the airport and questioned him about what had happened
6 in Turkey, correct?

7 A. Yeah.

8 Q. And through this period of time and going forward, Samy
9 continued to remain in touch with you, correct?

10 A. Yeah.

11 Q. And he had, by then, also called and spoken to your mom,
12 correct?

13 A. Um --

14 Q. I'm sorry?

15 A. I believe so, yeah.

16 Q. And do you recall when he first reached out to your mom
17 that was on January 30th?

18 A. January 30th? I don't recall that.

19 Q. Do you recall Samy sending an e-mail to your mom? Do you
20 recall her getting an e-mail from him on January 30th?

21 A. No.

22 Q. And you recall a couple of days later, after your father
23 came back, that Samy called and spoke to your mom on February
24 8th, correct?

25 A. Can you repeat the question? I'm sorry.

H1H5gam4

T. El Goarany - cross

1 Q. Sure. Let me try it a different way.

2 There came a time when contact with Samy was in more
3 of a rhythm, correct?

4 A. Yeah.

5 Q. So, there would be times when he would be able to tell you,
6 look, I will be in touch now, correct, and there will be
7 periods when I'm not in touch with you anymore, correct?

8 A. Yeah.

9 Q. Right.

10 And he did the same thing with his mom and -- your mom
11 or less so your dad, but at least with your mom; correct?

12 A. I don't -- I don't know. I don't think so. I don't think
13 he contacted my mom before spring of 2015.

14 Q. You don't recall on February 8th, 2015, your mother
15 receiving a phone call from Samy?

16 A. No.

17 Q. You don't recall on February 16th of 2015 Samy reaching out
18 to your mother through Facebook?

19 A. I don't recall that.

20 Q. Each time Samy contacted you, did you tell your parents by
21 then that Samy had reached out to you and contacted you?

22 A. In the beginning, no, but later on, yes.

23 Q. And, is it fair to say that Samy also reached out to your
24 cousin Ahmed from where he was, correct?

25 A. From where exactly? From Syria or from Turkey? Or from

H1H5gam4

T. El Goarany - cross

1 wherever? I don't -- the only thing I recall is Samy telling
2 me that he reached out to him in January, late January, but
3 they didn't speak after that until much later.

4 Q. Now, there was a time period, was there not, when Samy did
5 not have access to his own phone so he called you from the
6 phone of other people, correct?

7 A. Yeah, it happened. Yeah.

8 Q. And it happened in the sense that he called you and he said
9 I don't have my own phone, I'm calling you from the phone of
10 Abu Hareth. Correct? Do you remember that name?

11 A. I don't.

12 Q. And you knew what it meant, Abu Hareth; it meant somebody
13 else Samy said was with him, correct?

14 A. I don't recall that name.

15 Q. Do you recall any names who Samy told you about whose phone
16 numbers he used -- not phone numbers -- but phones?

17 A. Not off the top of my head. I don't remember their names.

18 Q. Okay, but you recall him using other numbers to call you,
19 correct?

20 A. Other numbers, yeah.

21 Q. And I just want to make sure and it is obvious, though,
22 your information only came from what Samy told you, correct?
23 You had no independent knowledge of any of this, correct?

24 A. Of?

25 Q. So Samy told you he was in Turkey, you believed him because

H1H5gam4

T. El Goarany - cross

1 it was Samy telling you it was in Turkey. You did not go
2 verify that, correct?

3 A. No, I didn't go to Turkey.

4 Q. Right.

5 And just as that, you didn't check that Samy was in
6 Syria, correct?

7 A. That's correct.

8 Q. And you recall that Samy contacted you on Facebook also
9 using other people's phones, correct? You don't recall that?

10 A. I don't recall that.

11 Q. Do you recall other people that were unknown to you
12 contacting you or, I guess the phrase is clicking on your image
13 or friending you and them being people you did not know,
14 correct?

15 A. There was one instance of that, yeah.

16 Q. And when the person poked you or sent you a friend request,
17 you recognized that person's name as -- or read that person's
18 name as being Abu Salem, correct?

19 A. Correct.

20 Q. And you friended that person back, correct?

21 A. No. He requested me to be his friend and then once you
22 accept, you're friends. You don't have to request back, so.

23 Q. No, no, no. I meant you accepted.

24 A. Yeah. I accepted the request. Sorry.

25 Q. And that was one of the things that you forgot to tell the

H1H5gam4

T. El Goarany - cross

1 FBI, correct?

2 A. I told the FBI that.

3 Q. They asked you and they told you. You didn't lie but it
4 was just one of the things you forgot to tell them about,
5 correct? You didn't tell the FBI, the FBI asked you about this
6 friend request and then the FBI told you what it was.

7 Do you recall that sequence?

8 A. No.

9 Q. Okay.

10 Now, there came a time, and I think Ms. Tekeei covered
11 this on her direct, when Samy reached out to you and would send
12 you long articles and quizzes to read and respond to, correct?

13 A. Yeah. He would send me reading material, yeah.

14 Q. And you were kind of surprised, were you not,
15 Mr. El- Goarany, about how quickly Samy had changed? You
16 mentioned that, that you were surprised as to how quickly he
17 had changed. Do you remember that?

18 A. I was surprised by the content, yeah, and -- yeah.

19 MS. SHROFF: Your Honor, would this be a good time to
20 stop for the day?

21 THE COURT: It would, indeed. We are just a couple of
22 minutes short of 4:00 but let's break for today.

23 We will meet again tomorrow beginning at 9:30, so
24 please try to be in the jury room no later than 9:20 or so.
25 Until then, please, do not discuss the case, do not read about

H1H5gam4

T. El Goarany - cross

1 it in the media, and do not do any research on your own.

2 Have a very, very good evening, ladies and gentlemen.

3 (Continued on next page)

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T. El Goarany - cross

1 (Jury not present)

2 THE COURT: Mr. El- Goarany, you may step down.

3 MS. SHROFF: Your Honor, I just want to say that I
4 made the request because the juror closest to me was mumbling
5 something about needing a drink so I thought --

6 THE COURT: Needing a drink?

7 MS. SHROFF: She might have meant water. I don't know
8 what she meant but.

9 THE COURT: Okay.

10 Anything?

11 MR. QUIGLEY: Nothing from us, your Honor.

12 MR. HABIB: No, your Honor.

13 THE COURT: Have a good night, folks. 9:15 tomorrow.

14 (Adjourned to 9:15 a.m., January 18, 2017.)
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